

By Senator Bennett

21-211-04

1                                   A bill to be entitled  
2           An act relating to agency reorganization;  
3           transferring the Division of Retirement and its  
4           powers, duties, functions, components, and  
5           assets from the Department of Management  
6           Services to the State Board of Administration;  
7           amending s. 110.205, F.S.; providing status of  
8           division personnel under the Career Service  
9           System; amending ss. 20.22, 20.28, 112.05,  
10          112.3173, 112.352, 112.354, 112.356, 112.358,  
11          112.361, 112.362, 112.363, 112.625, 112.63,  
12          112.64, 112.658, 112.661, 112.665, 121.021,  
13          121.025, 121.031, 121.051, 121.0511, 121.0515,  
14          121.052, 121.055, 121.081, 121.085, 121.091,  
15          121.095, 121.101, 121.111, 121.133, 121.135,  
16          121.136, 121.1815, 121.1905, 121.192, 121.193,  
17          121.22, 121.23, 121.24, 121.30, 121.35, 121.40,  
18          121.45, 121.4501, 121.403, 121.591, 121.5911,  
19          121.72, 121.73, 121.74, 122.02, 122.03, 122.05,  
20          122.06, 122.07, 122.08, 122.09, 122.10, 122.12,  
21          122.13, 122.15, 122.16, 122.23, 122.30, 122.34,  
22          122.351, 175.032, 175.121, 175.1215, 175.341,  
23          185.02, 185.10, 185.105, 185.23, 215.20,  
24          215.28, 215.44, 215.50, 215.52, 238.01, 238.02,  
25          238.03, 238.05, 238.07, 238.08, 238.09, 238.10,  
26          238.11, 238.12, 238.14, 238.15, 238.171,  
27          238.181, 238.32, 650.02, 650.06, F.S., to  
28          conform to such transfer; providing duties of  
29          the Department of Financial Services with  
30          respect to issuing benefit payments under  
31          retirement plans; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2  
3           Section 1. The Division of Retirement of the  
4 Department of Management Services is transferred to the State  
5 Board of Administration. All powers, duties, functions,  
6 records, personnel, property, and unexpended balances of  
7 appropriations, allocations, and other funds relating to the  
8 Division of Retirement are transferred by a type one transfer,  
9 as defined in section 20.06, Florida Statutes, to the State  
10 Board of Administration. This act does not alter or amend the  
11 powers, operations, or functioning of the State Board of  
12 Administration with respect to its duties, responsibilities,  
13 and authority existing prior to the enactment of this  
14 legislation.

15           Section 2. Paragraphs (g) and (h) of subsection (2) of  
16 section 20.22, Florida Statutes, are amended to read:

17           20.22 Department of Management Services.--There is  
18 created a Department of Management Services.

19           (2) The following divisions and programs within the  
20 Department of Management Services are established:

21           ~~(g) Division of Retirement.~~

22           (g)(h) Division of State Group Insurance.

23           Section 3. Section 20.28, Florida Statutes, is amended  
24 to read:

25           20.28 State Board of Administration.--The State Board  
26 of Administration, continued by s. 4(e), Art. IV ~~s. 9, Art.~~  
27 ~~XII~~ of the State Constitution, retains all of its powers,  
28 duties, and functions as prescribed by law. There is  
29 established under the State Board of Administration a Division  
30 of Retirement, which shall be subject to the direction of the  
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1 executive director of the board who is the agency head of the  
2 division for purposes of chapter 120.

3 Section 4. Paragraph (u) of subsection (2) of section  
4 110.205, Florida Statutes, is amended to read:

5 110.205 Career service; exemptions.--

6 (2) EXEMPT POSITIONS.--The exempt positions that are  
7 not covered by this part include the following:

8 (u) All officers and employees of the State Board of  
9 Administration, including its Division of Retirement. The  
10 State Board of Administration shall set the salaries and  
11 benefits of these positions.

12 Section 5. Paragraph (b) of subsection (4) of section  
13 112.05, Florida Statutes, is amended to read:

14 112.05 Retirement; cost-of-living adjustment;  
15 employment after retirement.--

16 (4)

17 (b) Any person to whom the limitation in paragraph (a)  
18 applies who violates such reemployment limitation and is  
19 reemployed with any agency participating in the Florida  
20 Retirement System prior to completion of the 12-month  
21 limitation period shall give timely notice of this fact in  
22 writing to the employer and to the Department of Management  
23 Services Division; and the person's retirement benefits shall  
24 be suspended for the balance of the 12-month limitation  
25 period. Any person employed in violation of this subsection  
26 and any employing agency which knowingly employs or appoints  
27 such person without notifying the Department of Management  
28 Services to suspend retirement benefits shall be jointly and  
29 severally liable for reimbursement to the retirement trust  
30 fund of any benefits paid during the reemployment limitation  
31 period. To avoid liability, such employing agency shall have a

1 written statement from the retiree that he or she is not  
2 retired from a state-administered retirement system. Any  
3 retirement benefits received by such person while reemployed  
4 during this limitation period shall be repaid to the  
5 retirement trust fund, and the retirement benefits shall  
6 remain suspended until such repayment has been made. Any  
7 benefits suspended beyond the reemployment limitation period  
8 shall apply toward the repayment of benefits received in  
9 violation of the reemployment limitation.

10 Section 6. Paragraph (d) of subsection (4) of section  
11 112.3173, Florida Statutes, is amended to read:

12 112.3173 Felonies involving breach of public trust and  
13 other specified offenses by public officers and employees;  
14 forfeiture of retirement benefits.--

15 (4) NOTICE.--

16 (d) The Commission on Ethics shall forward any notice  
17 and any other document received by it pursuant to this  
18 subsection to the governing body of the public retirement  
19 system of which the public officer or employee is a member or  
20 from which the public officer or employee may be entitled to  
21 receive a benefit. When called on by the Commission on Ethics,  
22 the Division of Retirement of the State Board of  
23 Administration ~~Department of Management Services~~ shall assist  
24 the commission in identifying the appropriate public  
25 retirement system.

26 Section 7. Subsections (2), (4), (5), (7), and (8) of  
27 section 112.363, Florida Statutes, are amended to read:

28 112.363 Retiree health insurance subsidy.--

29 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE  
30 SUBSIDY.--

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1 (a) A person who is retired under a state-administered  
2 retirement system, or a beneficiary who is a spouse or  
3 financial dependent entitled to receive benefits under a  
4 state-administered retirement system, is eligible for health  
5 insurance subsidy payments provided under this section; except  
6 that pension recipients under ss. 121.40, 238.07(16)(a), and  
7 250.22, recipients of health insurance coverage under s.  
8 110.1232, or any other special pension or relief act shall not  
9 be eligible for such payments.

10 (b) For purposes of this section, a person is deemed  
11 retired from a state-administered retirement system when he or  
12 she terminates employment with all employers participating in  
13 the Florida Retirement System as described in s. 121.021(39)  
14 and:

15 1. For a participant of the Public Employee Optional  
16 Retirement Program established under part II of chapter 121,  
17 the participant meets the age or service requirements to  
18 qualify for normal retirement as set forth in s. 121.021(29).

19 2. For a member of the Florida Retirement System  
20 defined benefit program, or any employee who maintains  
21 creditable service under both the defined benefit program and  
22 the Public Employee Optional Retirement Program, the member  
23 begins drawing retirement benefits from the defined benefit  
24 program of the Florida Retirement System.

25 (c)1. Effective July 1, 2001, any person retiring on  
26 or after such date as a member of the Florida Retirement  
27 System, including any participant of the defined contribution  
28 program administered pursuant to part II of chapter 121, must  
29 have satisfied the vesting requirements for his or her  
30 membership class under the Florida Retirement System defined  
31 benefit program as administered under part I of chapter 121.

1           2. Notwithstanding the provisions of subparagraph 1.,  
2 a person retiring due to disability must either qualify for a  
3 regular or in-line-of-duty disability benefit as provided in  
4 s. 121.091(4) or qualify for a disability benefit under a  
5 disability plan established under part II of chapter 121, as  
6 appropriate.

7           (d) Payment of the retiree health insurance subsidy  
8 shall be made only after coverage for health insurance for the  
9 retiree or beneficiary has been certified in writing to the  
10 Division of Retirement of the State Board of Administration  
11 ~~Department of Management Services~~. Participation in a former  
12 employer's group health insurance program is not a requirement  
13 for eligibility under this section.

14           (e) Participants in the Senior Management Service  
15 Optional Annuity Program as provided in s. 121.055(6) and the  
16 State University System Optional Retirement Program as  
17 provided in s. 121.35 shall not receive the retiree health  
18 insurance subsidy provided in this section. The employer of  
19 such participant shall pay the contributions required in  
20 subsection (8) to the annuity program provided in s.  
21 121.055(6)(d) or s. 121.35(4)(a), as applicable.

22           (4) PAYMENT OF RETIREE HEALTH INSURANCE  
23 SUBSIDY.--Beginning January 1, 1988, any monthly retiree  
24 health insurance subsidy amount due and payable under this  
25 section shall be paid to retired members by the Division of  
26 Retirement of the State Board of Administration ~~Department of~~  
27 ~~Management Services~~ or under the direction and control of the  
28 division department.

29           (5) TRUST FUND ESTABLISHED.--There is hereby  
30 established a trust fund in the state treasury to be entitled  
31 the Retiree Health Insurance Subsidy Trust Fund, which shall

1 be administered by the State Board of Administration. Said  
2 trust fund shall be used to account for all moneys received  
3 and disbursed pursuant to this section. Should funding for  
4 the retiree health insurance subsidy program fail to provide  
5 full benefits for all participants, the benefits may be  
6 reduced or canceled at any time.

7 (7) ADMINISTRATION OF SYSTEM.--The Division of  
8 Retirement of the State Board of Administration ~~Department of~~  
9 ~~Management Services~~ may adopt such rules and regulations as  
10 are necessary for the effective and efficient administration  
11 of this section. The cost of administration is ~~shall be~~  
12 appropriated from the trust fund.

13 (8) CONTRIBUTIONS.--For purposes of funding the  
14 insurance subsidy provided by this section:

15 (a) Beginning October 1, 1987, the employer of each  
16 member of a state-administered retirement plan shall  
17 contribute 0.24 percent of gross compensation each pay period.

18 (b) Beginning January 1, 1989, the employer of each  
19 member of a state-administered retirement plan shall  
20 contribute 0.48 percent of gross compensation each pay period.

21 (c) Beginning January 1, 1994, the employer of each  
22 member of a state-administered retirement plan shall  
23 contribute 0.56 percent of gross compensation each pay period.

24 (d) Beginning January 1, 1995, the employer of each  
25 member of a state-administered retirement plan shall  
26 contribute 0.66 percent of gross compensation each pay period.

27 (e) Beginning July 1, 1998, the employer of each  
28 member of a state-administered retirement plan shall  
29 contribute 0.94 percent of gross compensation each pay period.

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1 (f) Beginning July 1, 2001, the employer of each  
2 member of a state-administered plan shall contribute 1.11  
3 percent of gross compensation each pay period.

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5 Such contributions shall be submitted to the Division of  
6 Retirement of the State Board of Administration ~~Department of~~  
7 ~~Management Services~~ and deposited in the Retiree Health  
8 Insurance Subsidy Trust Fund.

9 Section 8. Subsection (10) is added to section  
10 112.625, Florida Statutes, to read:

11 112.625 Definitions.--As used in this act:

12 (10) "Division" means the Division of Retirement of  
13 the State Board of Administration.

14 Section 9. Subsections (2) and (4) of section 112.63,  
15 Florida Statutes, are amended to read:

16 112.63 Actuarial reports and statements of actuarial  
17 impact; review.--

18 (2) The frequency of actuarial reports must be at  
19 least every 3 years commencing from the last actuarial report  
20 of the plan or system or October 1, 1980, if no actuarial  
21 report has been issued within the 3-year period prior to  
22 October 1, 1979. The results of each actuarial report shall be  
23 filed with the plan administrator within 60 days of  
24 certification. Thereafter, the results of each actuarial  
25 report shall be made available for inspection upon request.  
26 Additionally, each retirement system or plan covered by this  
27 act which is not administered directly by the division  
28 ~~Department of Management Services~~ shall furnish a copy of each  
29 actuarial report to the division ~~Department of Management~~  
30 ~~Services~~ within 60 days after receipt from the actuary. The  
31 requirements of this section are supplemental to actuarial



1 valuations necessary to comply with the requirements of ss.  
2 218.321 and 218.39.

3 (4) Upon receipt, pursuant to subsection (2), of an  
4 actuarial report, or upon receipt, pursuant to subsection (3),  
5 of a statement of actuarial impact, the division ~~Department of~~  
6 ~~Management Services~~ shall acknowledge such receipt, but shall  
7 only review and comment on each retirement system's or plan's  
8 actuarial valuations at least on a triennial basis. If the  
9 division ~~department~~ finds that the actuarial valuation is not  
10 complete, accurate, or based on reasonable assumptions, or if  
11 the division ~~department~~ does not receive the actuarial report  
12 or statement of actuarial impact, the division ~~department~~  
13 shall notify the local government and request appropriate  
14 adjustment. If, after a reasonable period of time, a  
15 satisfactory adjustment is not made, the affected local  
16 government or the division ~~department~~ may petition for a  
17 hearing under the provisions of ss. 120.569 and 120.57. If the  
18 administrative law judge recommends in favor of the division  
19 ~~department~~, the division ~~department~~ shall perform an actuarial  
20 review or prepare the statement of actuarial impact. The cost  
21 to the division ~~department~~ of performing such actuarial review  
22 or preparing such statement shall be charged to the  
23 governmental entity of which the employees are covered by the  
24 retirement system or plan. If payment of such costs is not  
25 received by the division ~~department~~ within 60 days after  
26 receipt by the governmental entity of the request for payment,  
27 the division ~~department~~ shall certify to the Chief Financial  
28 Officer the amount due, and the Chief Financial Officer shall  
29 pay such amount to the division ~~department~~ from any funds  
30 payable to the governmental entity of which the employees are  
31 covered by the retirement system or plan. If the

1 administrative law judge recommends in favor of the local  
2 retirement system and the division ~~department~~ performs an  
3 actuarial review, the cost to the division ~~department~~ of  
4 performing the actuarial review shall be paid by the division  
5 ~~department~~.

6 Section 10. Subsection (1) of section 112.64, Florida  
7 Statutes, is amended to read:

8 112.64 Administration of funds; amortization of  
9 unfunded liability.--

10 (1) Employee contributions shall be deposited in the  
11 retirement system or plan at least monthly. Employer  
12 contributions shall be deposited at least quarterly; however,  
13 any revenues received from any source by an employer which are  
14 specifically collected for the purpose of allocation for  
15 deposit into a retirement system or plan shall be so deposited  
16 within 30 days of receipt by the employer. All employers and  
17 employees participating in the Florida Retirement System and  
18 other existing retirement systems which are administered by  
19 the division ~~Department of Management Services~~ shall continue  
20 to make contributions at least monthly.

21 Section 11. Subsections (1) and (3) of section  
22 112.658, Florida Statutes, are amended to read:

23 112.658 Office of Program Policy Analysis and  
24 Government Accountability to determine compliance of the  
25 Florida Retirement System.--

26 (1) The Office of Program Policy Analysis and  
27 Government Accountability shall determine, through the  
28 examination of actuarial reviews, financial statements, and  
29 the practices and procedures of the Division of Retirement  
30 ~~Department of Management Services~~, the compliance of the  
31 Florida Retirement System with the provisions of this act.

1           (3) The Office of Program Policy Analysis and  
2 Government Accountability shall employ the same actuarial  
3 standards to monitor the division ~~Department of Management~~  
4 ~~Services~~ as the division ~~Department of Management Services~~  
5 uses to monitor local governments.

6           Section 12. Subsections (9), (16), and (17) of section  
7 112.661, Florida Statutes, are amended to read:

8           112.661 Investment policies.--Investment of the assets  
9 of any local retirement system or plan must be consistent with  
10 a written investment policy adopted by the board. Such  
11 policies shall be structured to maximize the financial return  
12 to the retirement system or plan consistent with the risks  
13 incumbent in each investment and shall be structured to  
14 establish and maintain an appropriate diversification of the  
15 retirement system or plan's assets.

16           (9) EXPECTED ANNUAL RATE OF RETURN.--The investment  
17 policy shall require that, for each actuarial valuation, the  
18 board determine the total expected annual rate of return for  
19 the current year, for each of the next several years, and for  
20 the long term thereafter. This determination must be filed  
21 promptly with the division ~~Department of Management Services~~  
22 and with the plan's sponsor and the consulting actuary. The  
23 division ~~department~~ shall use this determination only to  
24 notify the board, the plan's sponsor, and consulting actuary  
25 of material differences between the total expected annual rate  
26 of return and the actuarial assumed rate of return.

27           (16) FILING OF INVESTMENT POLICY.--Upon adoption by  
28 the board, the investment policy shall be promptly filed with  
29 the division ~~Department of Management Services~~ and the plan's  
30 sponsor and consulting actuary. The effective date of the  
31 investment policy, and any amendment thereto, shall be the

1 31st calendar day following the filing date with the plan  
2 sponsor.

3 (17) VALUATION OF ILLIQUID INVESTMENTS.--The  
4 investment policy shall provide for the valuation of illiquid  
5 investments for which a generally recognized market is not  
6 available or for which there is no consistent or generally  
7 accepted pricing mechanism. If those investments are utilized,  
8 the investment policy must include the criteria set forth in  
9 s. 215.47(6), except that submission to the Investment  
10 Advisory Council is not required. The investment policy shall  
11 require that, for each actuarial valuation, the board must  
12 verify the determination of the fair market value for those  
13 investments and ascertain that the determination complies with  
14 all applicable state and federal requirements. The investment  
15 policy shall require that the board disclose to the division  
16 ~~Department of Management Services~~ and the plan's sponsor each  
17 such investment for which the fair market value is not  
18 provided.

19 Section 13. Section 112.665, Florida Statutes, is  
20 amended to read:

21 112.665 Duties of Division of Retirement ~~Department of~~  
22 ~~Management Services~~.--

23 (1) The Division of Retirement ~~Department of~~  
24 ~~Management Services~~ shall:

25 (a) Gather, catalog, and maintain complete,  
26 computerized data information on all public employee  
27 retirement systems or plans in the state, based upon a review  
28 of audits, reports, and other data pertaining to the systems  
29 or plans;

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1 (b) Receive and comment upon all actuarial reviews of  
2 retirement systems or plans maintained by units of local  
3 government;

4 (c) Cooperate with local retirement systems or plans  
5 on matters of mutual concern and provide technical assistance  
6 to units of local government in the assessment and revision of  
7 retirement systems or plans;

8 (d) Issue, by January 1 annually, a report to the  
9 President of the Senate and the Speaker of the House of  
10 Representatives, which report details division activities,  
11 findings, and recommendations concerning all governmental  
12 retirement systems. The report may include legislation  
13 proposed to carry out such recommendations;

14 (e) Issue, by January 1 annually, a report to the  
15 Special District Information Program of the Department of  
16 Community Affairs that includes the participation in and  
17 compliance of special districts with the local government  
18 retirement system provisions in s. 112.63 and the  
19 state-administered retirement system provisions as specified  
20 in part I of chapter 121; and

21 (f) Adopt reasonable rules to administer the  
22 provisions of this part.

23 (2) The division ~~department~~ may subpoena actuarial  
24 witnesses, review books and records, hold hearings, and take  
25 testimony. A witness shall have the right to be accompanied by  
26 counsel.

27 Section 14. Subsections (4), (5), (32), and (36) and  
28 paragraph (a) of subsection (39) of section 121.021, Florida  
29 Statutes, are amended, and subsection (62) is added to that  
30 section, to read:

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1           121.021 Definitions.--The following words and phrases  
2 as used in this chapter have the respective meanings set forth  
3 unless a different meaning is plainly required by the context:

4           (4) "Division Department" means the Division of  
5 Retirement of the State Board of Administration ~~Department of~~  
6 ~~Management Services~~.

7           (5) "Administrator" means the executive director of  
8 the State Board of Administration ~~secretary of the Department~~  
9 ~~of Management Services~~.

10          (32) "State agency" means the Division of Retirement  
11 ~~Department of Management Services~~ within the provisions and  
12 contemplation of chapter 650.

13          (36) "System Trust Fund" means the trust fund  
14 established in the State Treasury by this chapter and  
15 administered by the State Board of Administration for the  
16 purpose of holding and investing the contributions paid by  
17 members and employers and paying the benefits to which members  
18 or their beneficiaries may become entitled. Other trust funds  
19 may be established in the State Treasury to administer the  
20 "System Trust Fund."

21          (39)(a) "Termination" occurs, except as provided in  
22 paragraph (b), when a member ceases all employment  
23 relationships with employers under this system, as defined in  
24 subsection (10), but in the event a member should be employed  
25 by any such employer within the next calendar month,  
26 termination shall be deemed not to have occurred. A leave of  
27 absence shall constitute a continuation of the employment  
28 relationship, except that a leave of absence without pay due  
29 to disability may constitute termination for a member, if such  
30 member makes application for and is approved for disability  
31 retirement in accordance with s. 121.091(4). The division

1 ~~department~~ may require other evidence of termination as it  
2 deems necessary.

3 (62) "Board" means the State Board of Administration.

4 Section 15. Section 121.025, Florida Statutes, is  
5 amended to read:

6 121.025 Administrator; powers and duties.--The  
7 executive director of the State Board of Administration  
8 ~~secretary of the Department of Management Services~~ shall be  
9 the administrator of the retirement and pension systems  
10 assigned or transferred to the division ~~Department of~~  
11 ~~Management Services~~ by law. The executive director of the  
12 State Board of Administration is the trustee of the System  
13 Trust Fund and shall have the authority to sign the contracts  
14 necessary to carry out the duties and responsibilities  
15 assigned by law to the division ~~Department of Management~~  
16 ~~Services~~.

17 Section 16. Subsections (1), (2), and (5) and  
18 paragraph (e) of subsection (3) of section 121.031, Florida  
19 Statutes, are amended to read:

20 121.031 Administration of system; appropriation;  
21 oaths; actuarial studies; public records.--

22 (1) The division ~~Department of Management Services~~ has  
23 the authority to adopt rules pursuant to ss. 120.536(1) and  
24 120.54 to implement the provisions of law conferring duties  
25 upon the division ~~department~~ and to adopt rules as are  
26 necessary for the effective and efficient administration of  
27 this system. The funds to pay the expenses for administration  
28 of the system are hereby appropriated from the interest earned  
29 on investments made for the retirement and social security  
30 trust funds and the assessments allowed under chapter 650.

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1           (2) The division ~~Department of Management Services~~ is  
2 authorized to require oaths, by affidavit or otherwise, and  
3 acknowledgments from persons in connection with the  
4 administration of its duties and responsibilities under this  
5 chapter.

6           (3) The administrator shall cause an actuarial study  
7 of the system to be made at least annually and shall report  
8 the results of such study to the Legislature by December 31  
9 prior to the next legislative session. The study shall, at a  
10 minimum, conform to the requirements of s. 112.63, with the  
11 following exceptions and additions:

12           (e) The study shall include measures of funding status  
13 and funding progress designed to facilitate the assessment of  
14 trends over several actuarial valuations with respect to the  
15 overall solvency of the system. Such measures shall be adopted  
16 by the division ~~department~~ and shall be used consistently in  
17 all actuarial valuations performed on the system.

18           (5) The names and addresses of retirees are  
19 confidential and exempt from the provisions of s. 119.07(1) to  
20 the extent that no state or local governmental agency may  
21 provide the names or addresses of such persons in aggregate,  
22 compiled, or list form to any person except to a public agency  
23 engaged in official business. However, a state or local  
24 government agency may provide the names and addresses of  
25 retirees from that agency to a bargaining agent as defined in  
26 s. 447.203(12) or to a retiree organization for official  
27 business use. Lists of names or addresses of retirees may be  
28 exchanged by public agencies, but such lists shall not be  
29 provided to, or open for inspection by, the public. Any person  
30 may view or copy any individual's retirement records at the  
31 division ~~Department of Management Services~~, one record at a



1 time, or may obtain information by a separate written request  
2 for a named individual for which information is desired.

3 Section 17. Paragraph (c) of subsection (1) and  
4 paragraphs (b) and (f) of subsection (2) of section 121.051,  
5 Florida Statutes, are amended to read:

6 121.051 Participation in the system.--

7 (1) COMPULSORY PARTICIPATION.--

8 (c)1. After June 30, 1983, a member of an existing  
9 system who is reemployed after terminating employment shall  
10 have at the time of reemployment the option of selecting to  
11 remain in the existing retirement system or to transfer to the  
12 Florida Retirement System. Failure to submit such selection  
13 in writing to the division ~~Department of Management Services~~  
14 within 6 months of reemployment shall result in compulsory  
15 membership in the Florida Retirement System.

16 2. After June 30, 1988, the provisions of subparagraph  
17 1. shall not apply to a member of an existing system who is  
18 reemployed within 12 months after terminating employment. Such  
19 member shall continue to have membership in the existing  
20 system upon reemployment and shall not be permitted to become  
21 a member of the Florida Retirement System, except by  
22 transferring to that system as provided in ss. 121.052 and  
23 121.055.

24 (2) OPTIONAL PARTICIPATION.--

25 (b)1. The governing body of any municipality or  
26 special district in the state may elect to participate in the  
27 system upon proper application to the administrator and may  
28 cover all or any of its units as approved by the Secretary of  
29 Health and Human Services and the administrator. The division  
30 ~~department~~ shall adopt rules establishing provisions for the  
31 submission of documents necessary for such application. Prior

1 to being approved for participation in the Florida Retirement  
2 System, the governing body of any such municipality or special  
3 district that has a local retirement system shall submit to  
4 the administrator a certified financial statement showing the  
5 condition of the local retirement system as of a date within 3  
6 months prior to the proposed effective date of membership in  
7 the Florida Retirement System. The statement must be certified  
8 by a recognized accounting firm that is independent of the  
9 local retirement system. All required documents necessary for  
10 extending Florida Retirement System coverage must be received  
11 by the division ~~department~~ for consideration at least 15 days  
12 prior to the proposed effective date of coverage. If the  
13 municipality or special district does not comply with this  
14 requirement, the division ~~department~~ may require that the  
15 effective date of coverage be changed.

16         2. Any city or special district that has an existing  
17 retirement system covering the employees in the units that are  
18 to be brought under the Florida Retirement System may  
19 participate only after holding a referendum in which all  
20 employees in the affected units have the right to participate.  
21 Only those employees electing coverage under the Florida  
22 Retirement System by affirmative vote in said referendum shall  
23 be eligible for coverage under this chapter, and those not  
24 participating or electing not to be covered by the Florida  
25 Retirement System shall remain in their present systems and  
26 shall not be eligible for coverage under this chapter. After  
27 the referendum is held, all future employees shall be  
28 compulsory members of the Florida Retirement System.

29         3. The governing body of any city or special district  
30 complying with subparagraph 1. may elect to provide, or not  
31 provide, benefits based on past service of officers and

1 employees as described in s. 121.081(1). However, if such  
2 employer elects to provide past service benefits, such  
3 benefits must be provided for all officers and employees of  
4 its covered group.

5 4. Once this election is made and approved it may not  
6 be revoked, except pursuant to subparagraphs 5. and 6., and  
7 all present officers and employees electing coverage under  
8 this chapter and all future officers and employees shall be  
9 compulsory members of the Florida Retirement System.

10 5. Subject to the conditions set forth in subparagraph  
11 6., the governing body of any hospital licensed under chapter  
12 395 which is governed by the board of a special district as  
13 defined in s. 189.403(1) or by the board of trustees of a  
14 public health trust created under s. 154.07, hereinafter  
15 referred to as "hospital district," and which participates in  
16 the system, may elect to cease participation in the system  
17 with regard to future employees in accordance with the  
18 following procedure:

19 a. No more than 30 days and at least 7 days before  
20 adopting a resolution to partially withdraw from the Florida  
21 Retirement System and establish an alternative retirement plan  
22 for future employees, a public hearing must be held on the  
23 proposed withdrawal and proposed alternative plan.

24 b. From 7 to 15 days before such hearing, notice of  
25 intent to withdraw, specifying the time and place of the  
26 hearing, must be provided in writing to employees of the  
27 hospital district proposing partial withdrawal and must be  
28 published in a newspaper of general circulation in the area  
29 affected, as provided by ss. 50.011-50.031. Proof of  
30 publication of such notice shall be submitted to the division  
31 ~~Department of Management Services.~~

1           c. The governing body of any hospital district seeking  
2 to partially withdraw from the system must, before such  
3 hearing, have an actuarial report prepared and certified by an  
4 enrolled actuary, as defined in s. 112.625(3), illustrating  
5 the cost to the hospital district of providing, through the  
6 retirement plan that the hospital district is to adopt,  
7 benefits for new employees comparable to those provided under  
8 the Florida Retirement System.

9           d. Upon meeting all applicable requirements of this  
10 subparagraph, and subject to the conditions set forth in  
11 subparagraph 6., partial withdrawal from the system and  
12 adoption of the alternative retirement plan may be  
13 accomplished by resolution duly adopted by the hospital  
14 district board. The hospital district board must provide  
15 written notice of such withdrawal to the division by mailing a  
16 copy of the resolution to the division, postmarked no later  
17 than December 15, 1995. The withdrawal shall take effect  
18 January 1, 1996.

19           6. Following the adoption of a resolution under  
20 sub-subparagraph 5.d., all employees of the withdrawing  
21 hospital district who were participants in the Florida  
22 Retirement System prior to January 1, 1996, shall remain as  
23 participants in the system for as long as they are employees  
24 of the hospital district, and all rights, duties, and  
25 obligations between the hospital district, the system, and the  
26 employees shall remain in full force and effect. Any employee  
27 who is hired or appointed on or after January 1, 1996, may not  
28 participate in the Florida Retirement System, and the  
29 withdrawing hospital district shall have no obligation to the  
30 system with respect to such employees.

31

1 (f)1. Whenever an employer that participates in the  
2 Florida Retirement System undertakes the transfer, merger, or  
3 consolidation of governmental services or functions, the  
4 employer must notify the division ~~department~~ at least 60 days  
5 prior to such action and shall provide documentation as  
6 required by the division ~~department~~.

7 2. When the agency to which a member's employing unit  
8 is transferred, merged, or consolidated does not participate  
9 in the Florida Retirement System, a member shall elect in  
10 writing to remain in the Florida Retirement System or to  
11 transfer to the local retirement system operated by such  
12 agency. If such agency does not participate in a local  
13 retirement system, the member shall continue membership in the  
14 Florida Retirement System. In either case, the membership  
15 shall continue for as long as the member is employed by the  
16 agency to which his or her unit was transferred, merged, or  
17 consolidated.

18 Section 18. Subsection (2) of section 121.0511,  
19 Florida Statutes, is amended to read:

20 121.0511 Revocation of election and alternative  
21 plan.--The governing body of any municipality or independent  
22 special district that has elected to participate in the  
23 Florida Retirement System may revoke its election in  
24 accordance with the following procedure:

25 (2) At least 7 days, but not more than 15 days, before  
26 the hearing, notice of intent to revoke, specifying the time  
27 and place of the hearing, must be published in a newspaper of  
28 general circulation in the area affected, as provided by ss.  
29 50.011-50.031. Proof of publication of the notice must be  
30 submitted to the division ~~Department of Management Services~~.

31

1           Section 19. Subsections (3) and (4) and paragraph (c)  
2 of subsection (7) of section 121.0515, Florida Statutes, are  
3 amended to read:

4           121.0515 Special risk membership.--

5           (3) PROCEDURE FOR DESIGNATING.--

6           (a) Any member of the Florida Retirement System  
7 employed by a county, city, or special district who feels that  
8 he or she meets the criteria set forth in this section for  
9 membership in the Special Risk Class may request that his or  
10 her employer submit an application to the division ~~department~~  
11 requesting that the division ~~department~~ designate him or her  
12 as a special risk member. If the employer agrees that the  
13 member meets the requirements for special risk membership, the  
14 employer shall submit an application to the division  
15 ~~department~~ in behalf of the employee containing a  
16 certification that the member meets the criteria for special  
17 risk membership set forth in this section and such other  
18 supporting documentation as may be required by administrative  
19 rule. The division ~~department~~ shall, within 90 days, either  
20 designate or refuse to designate the member as a special risk  
21 member. If the employer declines to submit the member's  
22 application to the division ~~department~~ or if the division  
23 ~~department~~ does not designate the member as a special risk  
24 member, the member or the employer may appeal to the State  
25 Retirement Commission, as provided in s. 121.23, for  
26 designation as a special risk member. A member who receives a  
27 final affirmative ruling pursuant to such appeal for special  
28 risk membership shall have special risk membership retroactive  
29 to the date such member would have had special risk membership  
30 had such membership been approved by the employer and the  
31 division ~~department~~, as determined by the division ~~department~~,

1 and the employer contributions shall be paid in full within 1  
2 year after such final ruling.

3 (b)1. Applying the criteria set forth in this section,  
4 the division ~~Department of Management Services~~ shall specify  
5 which current and newly created classes of positions under the  
6 uniform classification plan established pursuant to chapter  
7 110 entitle the incumbents of positions in those classes to  
8 membership in the Special Risk Class. Only employees employed  
9 in the classes so specified shall be special risk members.

10 2. When a class is not specified by the division  
11 ~~department~~ as provided in subparagraph 1., the employing  
12 agency may petition the State Retirement Commission for  
13 approval in accordance with s. 121.23.

14 (4) REMOVAL OF SPECIAL RISK MEMBERSHIP.--Any member  
15 who is a special risk member on October 1, 1978, and who fails  
16 to meet the criteria for special risk membership established  
17 by this section shall have his or her special risk designation  
18 removed and thereafter shall be a regular member and shall  
19 earn only regular membership credit. The division ~~department~~  
20 shall have the authority to review the special risk  
21 designation of members to determine whether or not those  
22 members continue to meet the criteria for special risk  
23 membership.

24 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT  
25 DATE.--

26 (c) The division ~~department~~ shall adopt such rules as  
27 are required to administer this subsection.

28 Section 20. Paragraph (e) of subsection (3) of section  
29 121.052, Florida Statutes, is amended to read:

30 121.052 Membership class of elected officers.--

31

1           (3) PARTICIPATION AND WITHDRAWAL,  
2 GENERALLY.--Effective July 1, 1990, participation in the  
3 Elected Officers' Class shall be compulsory for elected  
4 officers listed in paragraphs (2)(a)-(d) and (f) assuming  
5 office on or after said date, unless the elected officer  
6 elects membership in another class or withdraws from the  
7 Florida Retirement System as provided in paragraphs  
8 (3)(a)-(d):

9           (e) Effective July 1, 2001, the governing body of a  
10 municipality or special district may, by majority vote, elect  
11 to designate all its elected positions for inclusion in the  
12 Elected Officers' Class. Such election shall be made between  
13 July 1, 2001, and December 31, 2001, and shall be irrevocable.  
14 The designation of such positions shall be effective the first  
15 day of the month following receipt by the division ~~department~~  
16 of the ordinance or resolution passed by the governing body.

17           Section 21. Paragraphs (b) and (h) of subsection (1)  
18 and paragraphs (a), (c), (d), and (f) of subsection (6) of  
19 section 121.055, Florida Statutes, are amended to read:

20           121.055 Senior Management Service Class.--There is  
21 hereby established a separate class of membership within the  
22 Florida Retirement System to be known as the "Senior  
23 Management Service Class," which shall become effective  
24 February 1, 1987.

25           (1)

26           (b)1. Except as provided in subparagraph 2., effective  
27 January 1, 1990, participation in the Senior Management  
28 Service Class shall be compulsory for the president of each  
29 community college, the manager of each participating city or  
30 county, and all appointed district school superintendents.  
31 Effective January 1, 1994, additional positions may be



1 designated for inclusion in the Senior Management Service  
2 Class of the Florida Retirement System, provided that:  
3       a. Positions to be included in the class shall be  
4 designated by the local agency employer. Notice of intent to  
5 designate positions for inclusion in the class shall be  
6 published once a week for 2 consecutive weeks in a newspaper  
7 of general circulation published in the county or counties  
8 affected, as provided in chapter 50.  
9       b. Up to 10 nonelective full-time positions may be  
10 designated for each local agency employer reporting to the  
11 division ~~Department of Management Services~~; for local agencies  
12 with 100 or more regularly established positions, additional  
13 nonelective full-time positions may be designated, not to  
14 exceed 1 percent of the regularly established positions within  
15 the agency.  
16       c. Each position added to the class must be a  
17 managerial or policymaking position filled by an employee who  
18 is not subject to continuing contract and serves at the  
19 pleasure of the local agency employer without civil service  
20 protection, and who:  
21           (I) Heads an organizational unit; or  
22           (II) Has responsibility to effect or recommend  
23 personnel, budget, expenditure, or policy decisions in his or  
24 her areas of responsibility.  
25       2. In lieu of participation in the Senior Management  
26 Service Class, members of the Senior Management Service Class  
27 pursuant to the provisions of subparagraph 1. may withdraw  
28 from the Florida Retirement System altogether. The decision to  
29 withdraw from the Florida Retirement System shall be  
30 irrevocable for as long as the employee holds such a position.  
31 Any service creditable under the Senior Management Service

1 Class shall be retained after the member withdraws from the  
2 Florida Retirement System; however, additional service credit  
3 in the Senior Management Service Class shall not be earned  
4 after such withdrawal. Such members shall not be eligible to  
5 participate in the Senior Management Service Optional Annuity  
6 Program.

7 (h)1. Except as provided in subparagraph 3., effective  
8 January 1, 1994, participation in the Senior Management  
9 Service Class shall be compulsory for the State Courts  
10 Administrator and the Deputy State Courts Administrators, the  
11 Clerk of the Supreme Court, the Marshal of the Supreme Court,  
12 the Executive Director of the Justice Administrative  
13 Commission, the Capital Collateral Regional Counsels, the  
14 clerks of the district courts of appeals, the marshals of the  
15 district courts of appeals, and the trial court administrator  
16 and the Chief Deputy Court Administrator in each judicial  
17 circuit. Effective January 1, 1994, additional positions in  
18 the offices of the state attorney and public defender in each  
19 judicial circuit may be designated for inclusion in the Senior  
20 Management Service Class of the Florida Retirement System,  
21 provided that:

22 a. Positions to be included in the class shall be  
23 designated by the state attorney or public defender, as  
24 appropriate. Notice of intent to designate positions for  
25 inclusion in the class shall be published once a week for 2  
26 consecutive weeks in a newspaper of general circulation  
27 published in the county or counties affected, as provided in  
28 chapter 50.

29 b. One nonelective full-time position may be  
30 designated for each state attorney and public defender  
31 reporting to the division ~~Department of Management Services;~~

1 for agencies with 200 or more regularly established positions  
2 under the state attorney or public defender, additional  
3 nonelective full-time positions may be designated, not to  
4 exceed 0.5 percent of the regularly established positions  
5 within the agency.

6 c. Each position added to the class must be a  
7 managerial or policymaking position filled by an employee who  
8 serves at the pleasure of the state attorney or public  
9 defender without civil service protection, and who:

10 (I) Heads an organizational unit; or

11 (II) Has responsibility to effect or recommend  
12 personnel, budget, expenditure, or policy decisions in his or  
13 her areas of responsibility.

14 2. Participation in this class shall be compulsory,  
15 except as provided in subparagraph 3., for any judicial  
16 employee who holds a position designated for coverage in the  
17 Senior Management Service Class, and such participation shall  
18 continue until the employee terminates employment in a covered  
19 position. Effective January 1, 2001, participation in this  
20 class is compulsory for assistant state attorneys, assistant  
21 statewide prosecutors, assistant public defenders, and  
22 assistant capital collateral regional counsels. Effective  
23 January 1, 2002, participation in this class is compulsory for  
24 assistant attorneys general.

25 3. In lieu of participation in the Senior Management  
26 Service Class, such members, excluding assistant state  
27 attorneys, assistant public defenders, assistant statewide  
28 prosecutors, assistant attorneys general, and assistant  
29 capital collateral regional counsels, may participate in the  
30 Senior Management Service Optional Annuity Program as  
31 established in subsection (6).

1           (6)(a) Senior Management Service Optional Annuity  
2 Program.--The State Board of Administration ~~Department of~~  
3 ~~Management Services~~ shall establish a Senior Management  
4 Service Optional Annuity Program under which contracts  
5 providing retirement, death, and disability benefits may be  
6 purchased for those employees who elect to participate in the  
7 optional annuity program. The benefits to be provided for or  
8 on behalf of participants in such optional annuity program  
9 shall be provided through individual contracts or individual  
10 certificates issued for group annuity contracts, which may be  
11 fixed, variable, or a combination thereof, in accordance with  
12 s. 401(a) of the Internal Revenue Code. Any such individual  
13 contract or certificate shall state the annuity plan on its  
14 face page, and shall include, but not be limited to, a  
15 statement of ownership, the contract benefits, annuity income  
16 options, limitations, expense charges, and surrender charges,  
17 if any. The employing agency shall contribute, as provided in  
18 this section, toward the purchase of such optional benefits  
19 which shall be fully and immediately vested in the  
20 participants.

21           (c) Participation.--

22           1. Any eligible employee who is employed on or before  
23 February 1, 1987, may elect to participate in the optional  
24 annuity program in lieu of participation in the Senior  
25 Management Service Class. Such election shall be made in  
26 writing and filed with the board ~~department~~ and the personnel  
27 officer of the employer on or before May 1, 1987. Any  
28 eligible employee who is employed on or before February 1,  
29 1987, and who fails to make an election to participate in the  
30 optional annuity program by May 1, 1987, shall be deemed to  
31

1 have elected membership in the Senior Management Service  
2 Class.

3         2. Any employee who becomes eligible to participate in  
4 the optional annuity program by reason of initial employment  
5 commencing after February 1, 1987, may, within 90 days after  
6 the date of commencement of employment, elect to participate  
7 in the optional annuity program. Such election shall be made  
8 in writing and filed with the personnel officer of the  
9 employer. Any eligible employee who does not within 90 days  
10 after commencement of such employment elect to participate in  
11 the optional annuity program shall be deemed to have elected  
12 membership in the Senior Management Service Class.

13         3. A person who is appointed to a position in the  
14 Senior Management Service Class and who is a member of an  
15 existing retirement system or the Special Risk or Special Risk  
16 Administrative Support Classes of the Florida Retirement  
17 System may elect to remain in such system or class in lieu of  
18 participation in the Senior Management Service Class or  
19 optional annuity program. Such election shall be made in  
20 writing and filed with the board ~~department~~ and the personnel  
21 officer of the employer within 90 days of such appointment.  
22 Any eligible employee who fails to make an election to  
23 participate in the existing system, the Special Risk Class of  
24 the Florida Retirement System, the Special Risk Administrative  
25 Support Class of the Florida Retirement System, or the  
26 optional annuity program shall be deemed to have elected  
27 membership in the Senior Management Service Class.

28         4. Except as provided in subparagraph 5., an  
29 employee's election to participate in the optional annuity  
30 program is irrevocable as long as such employee continues to  
31

1 be employed in an eligible position and continues to meet the  
2 eligibility requirements set forth in this paragraph.

3           5. Effective from July 1, 2002, through September 30,  
4 2002, any active employee in a regularly established position  
5 who has elected to participate in the Senior Management  
6 Service Optional Annuity Program has one opportunity to choose  
7 to move from the Senior Management Service Optional Annuity  
8 Program to the Florida Retirement System defined benefit  
9 program.

10           a. The election must be made in writing and must be  
11 filed with the department and the personnel officer of the  
12 employer before October 1, 2002, or, in the case of an active  
13 employee who is on a leave of absence on July 1, 2002, within  
14 90 days after the conclusion of the leave of absence. This  
15 election is irrevocable.

16           b. The employee will receive service credit under the  
17 defined benefit program of the Florida Retirement System equal  
18 to his or her years of service under the Senior Management  
19 Service Optional Annuity Program. The cost for such credit  
20 shall be an amount representing the present value of that  
21 employee's accumulated benefit obligation for the affected  
22 period of service.

23           c. The employee must transfer the total accumulated  
24 employer contributions and earnings on deposit in his or her  
25 Senior Management Service Optional Annuity Program account. If  
26 the transferred amount is not sufficient to pay the amount  
27 due, the employee must pay a sum representing the remainder of  
28 the amount due. In no case may the employee retain any  
29 employer contributions or earnings thereon from the Senior  
30 Management Service Optional Annuity Program account.

31           (d) Contributions.--

1           1. Through June 30, 2001, each employer shall  
2 contribute on behalf of each participant in the Senior  
3 Management Service Optional Annuity Program an amount equal to  
4 the normal cost portion of the employer retirement  
5 contribution which would be required if the participant were a  
6 Senior Management Service Class member of the Florida  
7 Retirement System defined benefit program, plus the portion of  
8 the contribution rate required in s. 112.363(8) that would  
9 otherwise be assigned to the Retiree Health Insurance Subsidy  
10 Trust Fund. Effective July 1, 2001, each employer shall  
11 contribute on behalf of each participant in the optional  
12 program an amount equal to 12.49 percent of the participant's  
13 gross monthly compensation. The board ~~department~~ shall deduct  
14 an amount approved by the board, pursuant to s. 215.44(4),  
15 ~~legislature~~ to provide for the administration of this program.  
16 The payment of the contributions to the optional program which  
17 is required by this subparagraph for each participant shall be  
18 made by the employer to the board ~~department~~, which shall  
19 forward the contributions to the designated company or  
20 companies contracting for payment of benefits for the  
21 participant under the program.

22           2. Each employer shall contribute on behalf of each  
23 participant in the Senior Management Service Optional Annuity  
24 Program an amount equal to the unfunded actuarial accrued  
25 liability portion of the employer contribution which would be  
26 required for members of the Senior Management Service Class in  
27 the Florida Retirement System. This contribution shall be  
28 paid to the board ~~department~~ for transfer to the Florida  
29 Retirement System Trust Fund.

30           3. An Optional Annuity Program Trust Fund shall be  
31 established in the State Treasury and administered by the

1 ~~board department~~ to make payments to provider companies on  
2 behalf of the optional annuity program participants, and to  
3 transfer the unfunded liability portion of the state optional  
4 annuity program contributions to the Florida Retirement System  
5 Trust Fund.

6 4. Contributions required for social security by each  
7 employer and each participant, in the amount required for  
8 social security coverage as now or hereafter may be provided  
9 by the federal Social Security Act shall be maintained for  
10 each participant in the Senior Management Service retirement  
11 program and shall be in addition to the retirement  
12 contributions specified in this paragraph.

13 5. Each participant in the Senior Management Service  
14 Optional Annuity Program may contribute by way of salary  
15 reduction or deduction a percentage amount of the  
16 participant's gross compensation not to exceed the percentage  
17 amount contributed by the employer to the optional annuity  
18 program. Payment of the participant's contributions shall be  
19 made by the employer to the ~~board department~~, which shall  
20 forward the contributions to the designated company or  
21 companies contracting for payment of benefits for the  
22 participant under the program.

23 (f) Administration.--

24 1. The Senior Management Service Optional Annuity  
25 Program authorized by this section shall be administered by  
26 the ~~board department~~. The ~~board department~~ shall designate  
27 one or more provider companies from which annuity contracts  
28 may be purchased under the program and shall approve the form  
29 and content of the contracts. The ~~board department~~ shall sign  
30 a contract with each of the provider companies and shall  
31 evaluate the performance of the provider companies on a



1 continuing basis. The board ~~department~~ may terminate the  
2 services of a provider company for reasons stated in the  
3 contract. The board ~~department~~ shall adopt rules establishing  
4 its responsibilities and the responsibilities of employers in  
5 administering the optional annuity program.

6 2. ~~Effective July 1, 1997, the State Board of~~  
7 ~~Administration shall review and make recommendations to the~~  
8 ~~department on the acceptability of all investment products~~  
9 ~~proposed by provider companies of the optional annuity program~~  
10 ~~before such products are offered through annuity contracts to~~  
11 ~~the participants and may advise the department of any changes~~  
12 ~~deemed necessary to ensure that the optional annuity program~~  
13 ~~offers an acceptable mix of investment products.~~The board  
14 department shall determine which ~~make the final determination~~  
15 ~~as to whether an investment~~ products ~~product~~ will be included  
16 in approved for the program.

17 3. The provisions of each contract applicable to a  
18 participant in the Senior Management Service Optional Annuity  
19 Program shall be contained in a written program description  
20 which shall include a report of pertinent financial and  
21 actuarial information on the solvency and actuarial soundness  
22 of the program and the benefits applicable to the participant.  
23 Such description shall be furnished by the company or  
24 companies to each participant in the program and to the board  
25 ~~department~~ upon commencement of participation in the program  
26 and annually thereafter.

27 4. The board ~~department~~ shall ensure that each  
28 participant in the Senior Management Service Optional Annuity  
29 Program is provided an accounting of the total contribution  
30 and the annual contribution made by and on behalf of such  
31 participants.

1           Section 22. Paragraph (h) of subsection (1) and  
2 paragraph (e) of subsection (2) of section 121.081, Florida  
3 Statutes, are amended to read:

4           121.081 Past service; prior service;  
5 contributions.--Conditions under which past service or prior  
6 service may be claimed and credited are:

7           (1)

8           (h) The following provisions apply to the purchase of  
9 past service:

10           1. Notwithstanding any of the provisions of this  
11 subsection, past-service credit may not be purchased under  
12 this chapter for any service that is used to obtain a benefit  
13 from any local retirement system.

14           2. A member may not receive past service credit under  
15 paragraphs (a), (b), (e), or (f) for any leaves of absence  
16 without pay, except that credit for active military service  
17 leaves of absence may be claimed under paragraphs (a), (b),  
18 and (f), in accordance with s. 121.111(1).

19           3. If a member does not desire to receive credit for  
20 all of his or her past service, the period the member claims  
21 must be the most recent past service prior to his or her  
22 participation in the Florida Retirement System.

23           4. The cost of past service purchased by an employing  
24 agency for its employees may be amortized over such period of  
25 time as is provided in the agreement, but not to exceed 15  
26 years, calculated in accordance with rule 60S-1.007(5)(f),  
27 Florida Administrative Code.

28           5. The retirement account of each member for whom past  
29 service is being provided by his or her employer shall be  
30 credited with all past service the employer agrees to purchase  
31

1 as soon as the agreement between the employer and the division  
2 ~~department~~ is executed. Pursuant thereto:

3 a. Each such member's account shall also be posted  
4 with the total contribution his or her employer agrees to make  
5 in the member's behalf for past service earned prior to  
6 October 1, 1975, excluding those contributions representing  
7 the employer's matching share and the compound interest  
8 calculation on the total contribution. However, a portion of  
9 any contributions paid by an employer for past service credit  
10 earned on and after October 1, 1975, may not be posted to a  
11 member's account.

12 b. A refund of contributions payable after an employer  
13 has made a written agreement to purchase past service for  
14 employees of the covered group shall include contributions for  
15 past service which are posted to a member's account. However,  
16 contributions for past service earned on and after October 1,  
17 1975, are not refundable.

18 (2) Prior service, as defined in s. 121.021(19), may  
19 be claimed as creditable service under the Florida Retirement  
20 System after a member has been reemployed for 1 complete year  
21 of creditable service within a period of 12 consecutive  
22 months, except as provided in paragraph (c). Service performed  
23 as a participant of the optional retirement program for the  
24 State University System under s. 121.35 or the Senior  
25 Management Service Optional Annuity Program under s. 121.055  
26 may be used to satisfy the reemployment requirement of 1  
27 complete year of creditable service. The member shall not be  
28 permitted to make any contributions for prior service until  
29 after completion of the 1 year of creditable service. If a  
30 member does not wish to claim credit for all of his or her  
31 prior service, the service the member claims must be the most

1 recent period of service. The required contributions for  
2 claiming the various types of prior service are:

3 (e) For service performed under the Florida Retirement  
4 System after December 1, 1970, that was never reported to the  
5 division ~~or the department~~ due to error, retirement credit may  
6 be claimed by a member of the Florida Retirement System. The  
7 division ~~department~~ shall adopt rules establishing criteria  
8 for claiming such credit and detailing the documentation  
9 required to substantiate the error.

10 Section 23. Subsection (1) of section 121.085, Florida  
11 Statutes, is amended to read:

12 121.085 Creditable service.--The following provisions  
13 shall apply to creditable service as defined in s.  
14 121.021(17):

15 (1) The division ~~department~~ shall adopt rules  
16 establishing procedures for the submission of evidence or  
17 information necessary to establish a member's claim of  
18 creditable service.

19 Section 24. Section 121.091, Florida Statutes, is  
20 amended to read:

21 121.091 Benefits payable under the system.--Benefits  
22 may not be paid under this section unless the member has  
23 terminated employment as provided in s. 121.021(39)(a) or  
24 begun participation in the Deferred Retirement Option Program  
25 as provided in subsection (13), and a proper application has  
26 been filed in the manner prescribed by the division  
27 ~~department~~. The division ~~department~~ may cancel an application  
28 for retirement benefits when the member or beneficiary fails  
29 to timely provide the information and documents required by  
30 this chapter and the division's ~~department's~~ rules. The  
31 division ~~department~~ shall adopt rules establishing procedures

1 for application for retirement benefits and for the  
2 cancellation of such application when the required information  
3 or documents are not received.

4 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or  
5 her normal retirement date, the member, upon application to  
6 the administrator, shall receive a monthly benefit which shall  
7 begin to accrue on the first day of the month of retirement  
8 and be payable on the last day of that month and each month  
9 thereafter during his or her lifetime. The normal retirement  
10 benefit, including any past or additional retirement credit,  
11 may not exceed 100 percent of the average final compensation.  
12 The amount of monthly benefit shall be calculated as the  
13 product of A and B, subject to the adjustment of C, if  
14 applicable, as set forth below:

15 (a)1. For creditable years of Regular Class service, A  
16 is 1.60 percent of the member's average final compensation, up  
17 to the member's normal retirement date. Upon completion of the  
18 first year after the normal retirement date, A is 1.63 percent  
19 of the member's average final compensation. Following the  
20 second year after the normal retirement date, A is 1.65  
21 percent of the member's average final compensation. Following  
22 the third year after the normal retirement date, and for  
23 subsequent years, A is 1.68 percent of the member's average  
24 final compensation.

25 2. For creditable years of special risk service, A is:

26 a. Two percent of the member's average final  
27 compensation for all creditable years prior to October 1,  
28 1974;

29 b. Three percent of the member's average final  
30 compensation for all creditable years after September 30,  
31 1974, and before October 1, 1978;

1           c. Two percent of the member's average final  
2 compensation for all creditable years after September 30,  
3 1978, and before January 1, 1989;

4           d. Two and two-tenths percent of the member's final  
5 monthly compensation for all creditable years after December  
6 31, 1988, and before January 1, 1990;

7           e. Two and four-tenths percent of the member's average  
8 final compensation for all creditable years after December 31,  
9 1989, and before January 1, 1991;

10          f. Two and six-tenths percent of the member's average  
11 final compensation for all creditable years after December 31,  
12 1990, and before January 1, 1992;

13          g. Two and eight-tenths percent of the member's  
14 average final compensation for all creditable years after  
15 December 31, 1991, and before January 1, 1993;

16          h. Three percent of the member's average final  
17 compensation for all creditable years after December 31, 1992;  
18 and

19          i. Three percent of the member's average final  
20 compensation for all creditable years of service after  
21 September 30, 1978, and before January 1, 1993, for any  
22 special risk member who retires after July 1, 2000, or any  
23 member of the Special Risk Administrative Support Class  
24 entitled to retain the special risk normal retirement date who  
25 was a member of the Special Risk Class during the time period  
26 and who retires after July 1, 2000.

27          3. For creditable years of Senior Management Service  
28 Class service after January 31, 1987, A is 2 percent;

29          4. For creditable years of Elected Officers' Class  
30 service as a Supreme Court Justice, district court of appeal  
31 judge, circuit judge, or county court judge, A is 3 1/3

1 percent of the member's average final compensation, and for  
2 all other creditable service in such class, A is 3 percent of  
3 average final compensation;

4 (b) B is the number of the member's years and any  
5 fractional part of a year of creditable service earned  
6 subsequent to November 30, 1970; and

7 (c) C is the normal retirement benefit credit brought  
8 forward as of November 30, 1970, by a former member of an  
9 existing system. Such normal retirement benefit credit shall  
10 be determined as the product of X and Y when X is the  
11 percentage of average final compensation which the member  
12 would have been eligible to receive if the member had attained  
13 his or her normal retirement date as of November 30, 1970, all  
14 in accordance with the existing system under which the member  
15 is covered on November 30, 1970, and Y is average final  
16 compensation as defined in s. 121.021(25). However, any  
17 member of an existing retirement system who is eligible to  
18 retire and who does retire, become disabled, or die prior to  
19 April 15, 1971, may have his or her retirement benefits  
20 calculated on the basis of the best 5 of the last 10 years of  
21 service.

22 (d) A member's average final compensation shall be  
23 determined by formula to obtain the coverage for the 5 highest  
24 fiscal years' salaries, calculated as provided by rule.

25 (2) BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT  
26 AGES.--If a member accumulates retirement benefits to commence  
27 at different normal retirement ages by virtue of having  
28 performed duties for an employer which would entitle him or  
29 her to benefits as both a member of the Special Risk Class and  
30 a member of either the Regular Class, Senior Management  
31 Service Class, or Elected Officers' Class, the amount of

1 benefits payable shall be computed separately with respect to  
2 each such age and the sum of such computed amounts shall be  
3 paid as provided in this section.

4 (3) EARLY RETIREMENT BENEFIT.--Upon retirement on his  
5 or her early retirement date, the member shall receive an  
6 immediate monthly benefit that shall begin to accrue on the  
7 first day of the month of the retirement date and be payable  
8 on the last day of that month and each month thereafter during  
9 his or her lifetime. Such benefit shall be calculated as  
10 follows:

11 (a) The amount of each monthly payment shall be  
12 computed in the same manner as for a normal retirement  
13 benefit, in accordance with subsection (1), but shall be based  
14 on the member's average monthly compensation and creditable  
15 service as of the member's early retirement date. The benefit  
16 so computed shall be reduced by five-twelfths of 1 percent for  
17 each complete month by which the early retirement date  
18 precedes the normal retirement date of age 62 for a member of  
19 the Regular Class, Senior Management Service Class, or the  
20 Elected Officers' Class, and age 55 for a member of the  
21 Special Risk Class, or age 52 if a Special Risk member has  
22 completed 25 years of creditable service in accordance with s.  
23 121.021(29)(b)3.

24 (b) If the employment of a member is terminated by  
25 reason of death subsequent to the completion of 20 years of  
26 creditable service, the monthly benefit payable to the  
27 member's beneficiary shall be calculated in accordance with  
28 subsection (1), but shall be based on average monthly  
29 compensation and creditable service as of the date of death.  
30 The benefit so computed shall be reduced by five-twelfths of 1  
31 percent for each complete month by which death precedes the



1 normal retirement date specified above or the date on which  
2 the member would have attained 30 years of creditable service  
3 had he or she survived and continued his or her employment,  
4 whichever provides a higher benefit.

5 (4) DISABILITY RETIREMENT BENEFIT.--

6 (a) Disability retirement; entitlement and effective  
7 date.--

8 1.a. A member who becomes totally and permanently  
9 disabled, as defined in paragraph (b), after completing 5  
10 years of creditable service, or a member who becomes totally  
11 and permanently disabled in the line of duty regardless of  
12 service, shall be entitled to a monthly disability benefit;  
13 except that any member with less than 5 years of creditable  
14 service on July 1, 1980, or any person who becomes a member of  
15 the Florida Retirement System on or after such date must have  
16 completed 10 years of creditable service prior to becoming  
17 totally and permanently disabled in order to receive  
18 disability retirement benefits for any disability which occurs  
19 other than in the line of duty. However, if a member employed  
20 on July 1, 1980, with less than 5 years of creditable service  
21 as of that date, becomes totally and permanently disabled  
22 after completing 5 years of creditable service and is found  
23 not to have attained fully insured status for benefits under  
24 the federal Social Security Act, such member shall be entitled  
25 to a monthly disability benefit.

26 b. Effective July 1, 2001, a member of the defined  
27 benefit retirement program who becomes totally and permanently  
28 disabled, as defined in paragraph (b), after completing 8  
29 years of creditable service, or a member who becomes totally  
30 and permanently disabled in the line of duty regardless of  
31 service, shall be entitled to a monthly disability benefit.

1           2. If the division has received from the employer the  
2 required documentation of the member's termination of  
3 employment, the effective retirement date for a member who  
4 applies and is approved for disability retirement shall be  
5 established by rule of the division.

6           3. For a member who is receiving Workers' Compensation  
7 payments, the effective disability retirement date may not  
8 precede the date the member reaches Maximum Medical  
9 Improvement (MMI), unless the member terminates employment  
10 prior to reaching MMI.

11           (b) Total and permanent disability.--A member shall be  
12 considered totally and permanently disabled if, in the opinion  
13 of the administrator, he or she is prevented, by reason of a  
14 medically determinable physical or mental impairment, from  
15 rendering useful and efficient service as an officer or  
16 employee.

17           (c) Proof of disability.--The administrator, before  
18 approving payment of any disability retirement benefit, shall  
19 require proof that the member is totally and permanently  
20 disabled as provided herein:

21           1. Such proof shall include the certification of the  
22 member's total and permanent disability by two licensed  
23 physicians of the state and such other evidence of disability  
24 as the administrator may require, including reports from  
25 vocational rehabilitation, evaluation, or testing specialists  
26 who have evaluated the applicant for employment.

27           2. It must be documented that:

28           a. The member's medical condition occurred or became  
29 symptomatic during the time the member was employed in an  
30 employee/employer relationship with his or her employer;

31

1           b. The member was totally and permanently disabled at  
2 the time he or she terminated covered employment; and

3           c. The member has not been employed with any other  
4 employer after such termination.

5           3. If the application is for in-line-of-duty  
6 disability, in addition to the requirements of subparagraph  
7 2., it must be documented by competent medical evidence that  
8 the disability was caused by a job-related illness or accident  
9 which occurred while the member was in an employee/employer  
10 relationship with his or her employer.

11           4. The unavailability of an employment position that  
12 the member is physically and mentally capable of performing  
13 will not be considered as proof of total and permanent  
14 disability.

15           (d) Election on appeal.--A member whose application  
16 for regular disability retirement has been denied and who has  
17 filed an appeal to the State Retirement Commission may, if  
18 eligible, elect to receive normal or early service retirement  
19 benefits while he or she is awaiting the decision on the  
20 appeal. However:

21           1. If the member elects to receive service retirement  
22 benefits and disability benefits are later approved as a  
23 result of the appeal, the payment option chosen by the member  
24 may not be changed.

25           2. If the member elects to receive early service  
26 retirement and the appeal is later denied, the member may not  
27 change his or her election of early retirement.

28  
29 Before such regular or early retirement benefits may be paid  
30 by the division, the member must provide to the division a  
31 written statement indicating that the member understands that

1 such changes are not permitted after he or she begins  
2 receiving the benefits.

3 (e) Disability retirement benefit.--Upon the  
4 retirement of a member on his or her disability retirement  
5 date, the member shall receive a monthly benefit that shall  
6 begin to accrue on the first day of the month of disability  
7 retirement and shall be payable on the last day of that month  
8 and each month thereafter during his or her lifetime and  
9 continued disability.

10 (f) Computation of disability retirement benefit.--The  
11 amount of each monthly payment shall be computed in the same  
12 manner as for a normal retirement benefit, in accordance with  
13 subsection (1), but shall be based on disability option  
14 actuarial equivalency tables and the average monthly  
15 compensation and creditable service of the member as of the  
16 disability retirement date, subject to the following  
17 conditions:

18 1. If the member's disability occurred in the line of  
19 duty, the monthly Option 1 benefit shall not be less than:

20 a. Forty-two percent of average monthly compensation  
21 as of the disability retirement date; or

22 b. Sixty-five percent of the average monthly  
23 compensation as of the disability retirement date for a member  
24 of the special risk class who retires on or after July 1,  
25 2000; or

26 2. If the member's disability occurred other than in  
27 the line of duty, the monthly Option 1 benefit shall not be  
28 less than 25 percent of average monthly compensation as of the  
29 disability retirement date.

30 (g) Reapplication.--A member, whose initial  
31 application for disability retirement has been denied, may

1 reapply for disability benefits. However, such member's  
2 reapplication will be considered only if the member presents  
3 new medical evidence of a medical condition that existed prior  
4 to the member's termination of employment. The division may  
5 prescribe by rule procedures for reapplication and for review  
6 and approval or disapproval of reapplication.

7 (h) Recovery from disability.--The administrator may  
8 require periodic reexaminations at the expense of the  
9 retirement fund. The division may adopt rules establishing  
10 procedures for conducting and review of such reexaminations.

11 1. If the administrator finds that a member who is  
12 receiving disability benefits is, at any time prior to his or  
13 her normal retirement date, no longer disabled, the  
14 administrator shall direct that the benefits be discontinued.  
15 The decision of the administrator on this question shall be  
16 final and binding. If such member:

17 a. Does not reenter the employ of an employer and was  
18 not vested as of the disability retirement date, he or she  
19 shall be entitled to the excess, if any, of his or her  
20 accumulated contributions over the total disability benefits  
21 received up to the date of recovery.

22 b. Does not reenter the employ of an employer, but was  
23 vested as of the disability retirement date, he or she may  
24 elect to receive:

25 (I) The excess, if any, of his or her accumulated  
26 contributions over the total disability benefits received up  
27 to the date of recovery; or

28 (II) A deferred benefit commencing on the last day of  
29 the month of the normal retirement date which shall be payable  
30 on the last day of the month thereafter during his or her  
31 lifetime. The amount of such monthly benefit shall be

1 computed in the same manner as for a normal retirement  
2 benefit, in accordance with subsection (1), but shall be based  
3 on average monthly compensation and creditable service as of  
4 the member's disability retirement date.

5 c. Reenters employment of an employer within 6 months  
6 after recovery, the member's service will be deemed to have  
7 been continuous, but the period beginning with the first month  
8 for which he or she received a disability benefit payment and  
9 ending with the date he or she reentered employment will not  
10 be considered as creditable service for the purpose of  
11 computing benefits except as provided in sub-subparagraph d.  
12 As used in this section, the term "accumulated contributions"  
13 for such member means the excess of the member's accumulated  
14 contributions as of the disability retirement date over the  
15 total disability benefits received under paragraph (e).

16 d. Terminates his or her disability benefit, reenters  
17 covered employment, and is continuously employed for a minimum  
18 of 1 year of creditable service, he or she may claim as  
19 creditable service the months during which he or she was  
20 receiving a disability benefit, upon payment of the required  
21 contributions. Contributions shall equal the total required  
22 employee and employer contribution rate applicable during the  
23 period the retiree received retirement benefits, multiplied  
24 times his or her rate of monthly compensation prior to the  
25 commencement of disability retirement for each month of the  
26 period claimed, plus 4 percent interest until July 1, 1975,  
27 and 6.5 percent interest thereafter, compounded annually each  
28 June 30 to the date of payment. If the member does not claim  
29 credit for all of the months he or she received disability  
30 benefits, the months claimed must be the most recent months of  
31 retirement. Such credit for periods of disability, when

1 purchased under the Florida Retirement System, shall apply  
2 toward vesting requirements for eligibility to purchase  
3 additional credit for other service.

4           2. Both the member receiving disability benefits who  
5 reenters employment and the employer employing such disability  
6 retiree shall notify the division immediately upon  
7 reemployment, and the division shall terminate such member's  
8 disability benefits, effective the first day of the month  
9 following the month in which notification of recovery is  
10 received. If the member is reemployed with a Florida  
11 Retirement System employer at the time of benefit termination,  
12 and he or she has received disability retirement benefit and  
13 salary payments concurrently prior to notifying the division,  
14 he or she may elect within 30 days to:

15           a. Retain the retirement benefits received prior to  
16 termination of disability benefits and begin receiving  
17 retirement service credit effective upon the date of  
18 termination of benefits; or

19           b. Repay, within 12 months after his or her decision  
20 to receive service credit, the retirement benefits received  
21 for each month of reemployment prior to termination of  
22 disability benefits and begin receiving retirement service  
23 credit effective upon the date of reemployment. Any such  
24 unpaid benefits shall have compound interest of 6.5 percent  
25 added June 30.

26  
27 A member may not receive both retirement service credit for  
28 employment and retirement benefits for the same month.

29           3. If, after recovery of disability and reentry into  
30 covered employment, the member again becomes disabled and is  
31 again approved for disability retirement, the Option 1 monthly

1 retirement benefit shall not be less than the Option 1 monthly  
2 benefit calculated at the time of the previous disability,  
3 plus any cost of living increases up to the time the  
4 disability benefit was terminated upon his or her reentry into  
5 covered employment.

6 (i) Nonadmissible causes of disability.--A member  
7 shall not be entitled to receive any disability retirement  
8 benefit if the disability is a result of any of the following:

9 1. Injury or disease sustained by the member while  
10 willfully participating in a riot, civil insurrection, or  
11 other act of violence or while committing a felony;

12 2. Injury or disease sustained by the member after his  
13 or her employment has terminated; or

14 3. Intentional, self-inflicted injury.

15 (j) Disability retirement of justice or judge by order  
16 of Supreme Court.--

17 ~~†~~ If a member is a justice of the Supreme Court,  
18 judge of a district court of appeal, circuit judge, or judge  
19 of a county court who has served for 6 years or more as an  
20 elected constitutional judicial officer, including service as  
21 a judicial officer in any court abolished pursuant to Art. V  
22 of the State Constitution, and who is retired for disability  
23 by order of the Supreme Court upon recommendation of the  
24 Judicial Qualifications Commission pursuant to the provisions  
25 of Art. V of the State Constitution, the member's Option 1  
26 monthly benefit as provided in subparagraph (6)(a)1. shall not  
27 be less than two-thirds of his or her monthly compensation as  
28 of the member's disability retirement date. Such a member may  
29 alternatively elect to receive a disability retirement benefit  
30 under any other option as provided in paragraph (6)(a).

31



1           ~~2. Should any justice or judge who is a member of the~~  
2 ~~Florida Retirement System be retired for disability by order~~  
3 ~~of the Supreme Court upon recommendation of the Judicial~~  
4 ~~Qualifications Commission pursuant to the provisions of Art. V~~  
5 ~~of the State Constitution, then all contributions to his or~~  
6 ~~her account and all contributions made on his or her behalf by~~  
7 ~~the employer shall be transferred to and deposited in the~~  
8 ~~General Revenue Fund of the state, and there is hereby~~  
9 ~~appropriated annually out of the General Revenue Fund, to be~~  
10 ~~paid into the Florida Retirement System Fund, an amount~~  
11 ~~necessary to pay the benefits of all justices and judges~~  
12 ~~retired from the Florida Retirement System pursuant to Art. V~~  
13 ~~of the State Constitution.~~

14           (5) TERMINATION BENEFITS.--A member whose employment  
15 is terminated prior to retirement retains membership rights to  
16 previously earned member-noncontributory service credit, and  
17 to member-contributory service credit, if the member leaves  
18 the member contributions on deposit in his or her retirement  
19 account. If a terminated member receives a refund of member  
20 contributions, such member may reinstate membership rights to  
21 the previously earned service credit represented by the refund  
22 by completing 1 year of creditable service and repaying the  
23 refunded member contributions, plus interest.

24           (a) A member whose employment is terminated for any  
25 reason other than death or retirement prior to becoming vested  
26 is entitled to the return of his or her accumulated  
27 contributions as of the date of termination.

28           (b) A member whose employment is terminated for any  
29 reason other than death or retirement after becoming vested  
30 may elect to receive a deferred monthly benefit which shall  
31 begin to accrue on the first day of the month of normal or

1 early retirement and shall be payable on the last day of that  
2 month and each month thereafter during his or her lifetime.  
3 The amount of monthly benefit shall be computed in the same  
4 manner as for a normal retirement benefit in accordance with  
5 subsection (1) or early retirement benefit in accordance with  
6 s. 121.021(30), but based on average monthly compensation and  
7 creditable service as of the date of termination.

8 (c) In lieu of the deferred monthly benefit provided  
9 in paragraph (b), the terminated member may elect to receive a  
10 lump-sum amount equal to his or her accumulated contributions  
11 as of the date of termination.

12 (d) If any retired member dies without having received  
13 in benefit payments an amount equal to his or her accumulated  
14 contributions, there shall be payable to his or her designated  
15 beneficiary an amount equal to the excess, if any, of the  
16 member's accumulated contributions over the total monthly  
17 payments made to the member prior to the date of death.

18 (e) A member shall be deemed a terminated member when  
19 termination of employment has occurred as provided in s.  
20 121.021(39).

21 (f) Any member who has been found guilty by a verdict  
22 of a jury, or by the court trying the case without a jury, of  
23 committing, aiding, or abetting any embezzlement or theft from  
24 his or her employer, bribery in connection with the  
25 employment, or other felony specified in chapter 838, except  
26 ss. 838.15 and 838.16, committed prior to retirement, or who  
27 has entered a plea of guilty or of nolo contendere to such  
28 crime, or any member whose employment is terminated by reason  
29 of the member's admitted commitment, aiding, or abetting of an  
30 embezzlement or theft from his or her employer, bribery, or  
31 other felony specified in chapter 838, except ss. 838.15 and

1 838.16, shall forfeit all rights and benefits under this  
2 chapter, except the return of his or her accumulated  
3 contributions as of the date of termination.

4 (g) Any elected official who is convicted by the  
5 Senate of an impeachable offense shall forfeit all rights and  
6 benefits under this chapter, except the return of his or her  
7 accumulated contributions as of the date of the conviction.

8 (h) Any member who, prior to retirement, is adjudged  
9 by a court of competent jurisdiction to have violated any  
10 state law against strikes by public employees, or who has been  
11 found guilty by such court of violating any state law  
12 prohibiting strikes by public employees, shall forfeit all  
13 rights and benefits under this chapter, except the return of  
14 his or her accumulated contributions as of the date of the  
15 conviction.

16 (i) Any beneficiary who by a verdict of a jury or by  
17 the court trying the case without a jury is found guilty, or  
18 who has entered a plea of guilty or nolo contendere, of  
19 unlawfully and intentionally killing or procuring the death of  
20 the member forfeits all rights to the deceased member's  
21 benefits under this chapter, and the benefits will be paid as  
22 if such beneficiary had predeceased the decedent.

23 (j) Benefits shall not be paid by the division pending  
24 final resolution of such charges against a member or  
25 beneficiary if the resolution of such charges could require  
26 the forfeiture of benefits as provided in paragraph (f),  
27 paragraph (g), paragraph (h), or paragraph (i).

28 (6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND  
29 DISABILITY RETIREMENT BENEFITS.--

30 (a) Prior to the receipt of the first monthly  
31 retirement payment, a member shall elect to receive the

1 retirement benefits to which he or she is entitled under  
2 subsection (1), subsection (2), subsection (3), or subsection  
3 (4) in accordance with one of the following options:

4 1. The maximum retirement benefit payable to the  
5 member during his or her lifetime.

6 2. A decreased retirement benefit payable to the  
7 member during his or her lifetime and, in the event of his or  
8 her death within a period of 10 years after retirement, the  
9 same monthly amount payable for the balance of such 10-year  
10 period to his or her beneficiary or, in case the beneficiary  
11 is deceased, in accordance with subsection (8) as though no  
12 beneficiary had been named.

13 3. A decreased retirement benefit payable during the  
14 joint lifetime of both the member and his or her joint  
15 annuitant and which, after the death of either, shall continue  
16 during the lifetime of the survivor in the same amount,  
17 subject to the provisions of subsection (12).

18 4. A decreased retirement benefit payable during the  
19 joint lifetime of the member and his or her joint annuitant  
20 and which, after the death of either, shall continue during  
21 the lifetime of the survivor in an amount equal to  $66 \frac{2}{3}$   
22 percent of the amount that was payable during the joint  
23 lifetime of the member and his or her joint annuitant, subject  
24 to the provisions of subsection (12).

25

26 The spouse of any member who elects to receive the benefit  
27 provided under subparagraph 1. or subparagraph 2. shall be  
28 notified of and shall acknowledge any such election. The  
29 division shall establish by rule a method for selecting the  
30 appropriate actuarial factor for optional forms of benefits

31

1 selected under subparagraphs 3. and 4., based on the age of  
2 the member and the joint annuitant.

3 (b) The benefit payable under any option stated above  
4 shall be the actuarial equivalent, based on tables adopted by  
5 the administrator for this purpose, of the amount to which the  
6 member was otherwise entitled.

7 (c) A member who elects the option in subparagraph  
8 (a)2. shall, in accordance with subsection (8), designate one  
9 or more persons to receive the benefits payable in the event  
10 of his or her death. Such persons shall be the beneficiaries  
11 of the member. The member may also designate one or more  
12 contingent beneficiaries to receive any benefits remaining  
13 upon the death of the primary beneficiary.

14 (d) A member who elects the option in subparagraph  
15 (a)3. or subparagraph (a)4. shall, on a form provided for that  
16 purpose, designate a joint annuitant to receive the benefits  
17 which continue to be payable upon the death of the member.  
18 After benefits have commenced under the option in subparagraph  
19 (a)3. or subparagraph (a)4., the following shall apply:

20 1. A retired member may change his or her designation  
21 of a joint annuitant only twice. If such a retired member  
22 desires to change his or her designation of a joint annuitant,  
23 he or she shall file with the division a notarized "change of  
24 joint annuitant" form and shall notify the former joint  
25 annuitant in writing of such change. Effective the first day  
26 of the next month following receipt by the division of a  
27 completed change of joint annuitant form, the division shall  
28 adjust the member's monthly benefit by the application of  
29 actuarial tables and calculations developed to ensure that the  
30 benefit paid is the actuarial equivalent of the present value  
31 of the member's current benefit. The consent of a retired

1 member's first designated joint annuitant to any such change  
2 shall not be required. However, if either the member or the  
3 joint annuitant dies before the effective date of the request  
4 for change of joint annuitant, the requested change shall be  
5 void, and survivor benefits, if any, shall be paid as if no  
6 request had been made.

7           2. In the event of the dissolution of marriage of a  
8 retired member and a joint annuitant, such member may make an  
9 election to nullify the joint annuitant designation of the  
10 former spouse, unless there is an existing qualified domestic  
11 relations order preventing such action. The member shall file  
12 with the division a written, notarized nullification which  
13 shall be effective on the first day of the next month  
14 following receipt by the division. Benefits shall be paid as  
15 if the former spouse predeceased the member. A member who  
16 makes such an election may not reverse the nullification but  
17 may designate a new joint annuitant in accordance with  
18 subparagraph 1.

19           (e) The election of an option shall be null and void  
20 if the member dies before the effective date of retirement.

21           (f) A member who elects to receive benefits under the  
22 option in subparagraph (a)3. may designate one or more  
23 qualified persons, either a spouse or other dependent, as his  
24 or her joint annuitant to receive the benefits after the  
25 member's death in whatever proportion he or she so assigns to  
26 each person named as joint annuitant. The division shall adopt  
27 appropriate actuarial tables and calculations necessary to  
28 ensure that the benefit paid is the actuarial equivalent of  
29 the benefit to which the member is otherwise entitled under  
30 the option in subparagraph (a)1.

31

1 (g) Upon the death of a retired member or beneficiary  
2 receiving monthly benefits under this chapter, the monthly  
3 benefits shall be paid through the last day of the month of  
4 death and shall terminate, or be adjusted, if applicable, as  
5 of that date in accordance with the optional form of benefit  
6 selected at the time of retirement.

7 (h) The option selected or determined for payment of  
8 benefits as provided in this section shall be final and  
9 irrevocable at the time a benefit payment is cashed or  
10 deposited or credited to the Deferred Retirement Option  
11 Program as provided in subsection (13).

12 (7) DEATH BENEFITS.--

13 (a) If the employment of a member is terminated by  
14 reason of his or her death prior to being vested, except as  
15 provided in paragraph (f), there shall be payable to his or  
16 her designated beneficiary the member's accumulated  
17 contributions.

18 (b) If the employment of an active member who may or  
19 may not have applied for retirement is terminated by reason of  
20 his or her death subsequent to becoming vested and prior to  
21 his or her effective date of retirement, if established, it  
22 shall be assumed that the member retired as of the date of  
23 death in accordance with subsection (1) if eligible for normal  
24 retirement benefits, subsection (2) if eligible for benefits  
25 payable for dual normal retirement, or subsection (3) if  
26 eligible for early retirement benefits. Benefits payable to  
27 the designated beneficiary shall be as follows:

28 1. For a beneficiary who qualifies as a joint  
29 annuitant, the optional form of payment provided in accordance  
30 with subparagraph (6)(a)3. shall be paid for the joint  
31 annuitant's lifetime.

1           2. For a beneficiary who does not qualify as a joint  
2 annuitant, no continuing monthly benefit shall be paid and the  
3 beneficiary shall be entitled only to the return of the  
4 member's personal contributions. If there is no monetary  
5 interest in the member's retirement account for which such  
6 beneficiary is eligible, the beneficiary shall be the next  
7 named beneficiary or, if no other beneficiary is named, the  
8 beneficiary shall be the next eligible beneficiary according  
9 to subsection (8).

10           (c) If a retiring member dies on or after the  
11 effective date of retirement, but prior to a benefit payment  
12 being cashed or deposited, or credited to the Deferred  
13 Retirement Option Program, benefits shall be paid as follows:

14           1. For a designated beneficiary who qualifies as a  
15 joint annuitant, benefits shall be paid in the optional form  
16 of payment provided in subparagraph (6)(a)3. for the joint  
17 annuitant's lifetime or, if the member chose the optional form  
18 of payment provided in subparagraph (6)(a)2., the joint  
19 annuitant may select the form provided in either subparagraph  
20 (6)(a)2. or subparagraph (6)(a)3.

21           2. For a designated beneficiary who does not qualify  
22 as a joint annuitant, any benefits payable shall be paid as  
23 provided in the option selected by the member; or if the  
24 member has not selected an option, benefits shall be paid in  
25 the optional form of payment provided in subparagraph (6)(a)1.

26           (d) Notwithstanding any other provision in this  
27 chapter to the contrary, with the exception of the Deferred  
28 Retirement Option Program, as provided in subsection (13):

29           1. The surviving spouse of any member killed in the  
30 line of duty may receive a monthly pension equal to one-half  
31 of the monthly salary being received by the member at the time



1 of death for the rest of the surviving spouse's lifetime or,  
2 if the member was vested, such surviving spouse may elect to  
3 receive a benefit as provided in paragraph (b). Benefits  
4 provided by this paragraph shall supersede any other  
5 distribution that may have been provided by the member's  
6 designation of beneficiary.

7           2. If the surviving spouse of a member killed in the  
8 line of duty dies, the monthly payments which would have been  
9 payable to such surviving spouse had such surviving spouse  
10 lived shall be paid for the use and benefit of such member's  
11 child or children under 18 years of age and unmarried until  
12 the 18th birthday of the member's youngest child.

13           3. If a member killed in the line of duty leaves no  
14 surviving spouse but is survived by a child or children under  
15 18 years of age, the benefits provided by subparagraph 1.,  
16 normally payable to a surviving spouse, shall be paid for the  
17 use and benefit of such member's child or children under 18  
18 years of age and unmarried until the 18th birthday of the  
19 member's youngest child.

20           4. The surviving spouse of a member whose benefit  
21 terminated because of remarriage shall have the benefit  
22 reinstated beginning July 1, 1993, at an amount that would  
23 have been payable had the benefit not been terminated.

24           (e) The surviving spouse or other dependent of any  
25 member, except a member who participated in the Deferred  
26 Retirement Option Program, whose employment is terminated by  
27 death shall, upon application to the administrator, be  
28 permitted to pay the required contributions for any service  
29 performed by the member which could have been claimed by the  
30 member at the time of his or her death. Such service shall be  
31 added to the creditable service of the member and shall be

1 used in the calculation of any benefits which may be payable  
2 to the surviving spouse or other surviving dependent.

3 (f) Notwithstanding any other provisions in this  
4 chapter to the contrary and upon application to the  
5 administrator, an eligible joint annuitant, of a member whose  
6 employment is terminated by death within 1 year of such member  
7 satisfying the service requirements for vesting and retirement  
8 eligibility, shall be permitted to purchase only the  
9 additional service credit necessary to vest and qualify for  
10 retirement benefits, not to exceed a total of 1 year of  
11 credit, by one or a combination of the following methods:

12 1. Such eligible joint annuitant may use the deceased  
13 member's accumulated hours of annual, sick, and compensatory  
14 leave to purchase additional creditable service, on an hour by  
15 hour basis, provided that such deceased member's accumulated  
16 leave is sufficient to cover the additional months required.  
17 For each month of service credit needed prior to the final  
18 month, credit for the total number of work hours in that month  
19 must be purchased, using an equal number of the deceased  
20 member's accumulated leave hours. Service credit required for  
21 the final month in which the deceased member would have become  
22 vested shall be awarded upon the purchase of 1 hour of credit.  
23 Such eligible joint annuitant shall pay the contribution rate  
24 in effect for the period of time being claimed for the  
25 deceased member's class of membership, multiplied by such  
26 member's monthly salary at the time of death, plus 6.5 percent  
27 interest compounded annually. The accumulated leave payment  
28 used in the average final compensation shall not include that  
29 portion of the payment that represents any leave hours used in  
30 the purchase of such creditable service.

31

1           2. Such eligible joint annuitant may purchase  
2 additional months of creditable service for any periods of  
3 out-of-state service as provided in s. 121.1115, and in-state  
4 service as provided in s. 121.1122, that the deceased member  
5 would have been eligible to purchase prior to his or her  
6 death.

7  
8 Service purchased under this paragraph shall be added to the  
9 creditable service of the member and used to vest for  
10 retirement eligibility, and shall be used in the calculation  
11 of any benefits which may be payable to the eligible joint  
12 annuitant. Any benefits paid in accordance with this  
13 paragraph shall only be made prospectively.

14           (g) Notwithstanding any other provisions in this  
15 chapter to the contrary, if any member who is vested dies and  
16 the surviving spouse receives a refund of the accumulated  
17 contributions made to the retirement trust fund, such spouse  
18 may pay to the Division of Retirement an amount equal to the  
19 sum of the amount of the deceased member's accumulated  
20 contributions previously refunded plus interest at 4 percent  
21 compounded annually each June 30 from the date of refund until  
22 July 1, 1975, and 6.5 percent interest compounded annually  
23 thereafter, until full payment is made, and receive the  
24 monthly retirement benefit as provided in paragraph (b).

25           (h) The designated beneficiary who is the surviving  
26 spouse or other dependent of a member whose employment is  
27 terminated by death subsequent to becoming vested, but prior  
28 to actual retirement, may elect to receive a deferred monthly  
29 benefit as if the member had lived and had elected a deferred  
30 monthly benefit, as provided in paragraph (5)(b), calculated  
31 on the basis of the average final compensation and creditable

1 service of the member at his or her death and the age the  
2 member would have attained on the commencement date of the  
3 deferred benefit elected by the beneficiary, paid in  
4 accordance with option 3 of paragraph (6)(a).

5 (8) DESIGNATION OF BENEFICIARIES.--

6 (a) Each member may, on a form provided for that  
7 purpose, signed and filed with the division, designate a  
8 choice of one or more persons, named sequentially or jointly,  
9 as his or her beneficiary who shall receive the benefits, if  
10 any, which may be payable in the event of the member's death  
11 pursuant to the provisions of this chapter. If no beneficiary  
12 is named in the manner provided above, or if no beneficiary  
13 designated by the member survives the member, the beneficiary  
14 shall be the spouse of the deceased, if living. If the  
15 member's spouse is not alive at his or her death, the  
16 beneficiary shall be the living children of the member. If no  
17 children survive, the beneficiary shall be the member's father  
18 or mother, if living; otherwise, the beneficiary shall be the  
19 member's estate. The beneficiary most recently designated by  
20 a member on a form or letter filed with the division shall be  
21 the beneficiary entitled to any benefits payable at the time  
22 of the member's death, except that benefits shall be paid as  
23 provided in paragraph (7)(d) when death occurs in the line of  
24 duty. Notwithstanding any other provisions in this subsection  
25 to the contrary, for a member who dies prior to his or her  
26 effective date of retirement on or after January 1, 1999, the  
27 spouse at the time of death shall be the member's beneficiary  
28 unless such member designates a different beneficiary as  
29 provided herein subsequent to the member's most recent  
30 marriage.

31

1           (b) A designated beneficiary of a retirement account  
2 for whom there is a monetary interest may disclaim his or her  
3 monetary interest as provided in s. 689.21, and in accordance  
4 with division rules governing such disclaimers. Such  
5 disclaimer must be filed within 24 months after the event that  
6 created the interest, that is, the death of the member or  
7 annuitant.

8           (c) Notwithstanding the member's designation of  
9 benefits to be paid through a trust to a beneficiary that is a  
10 natural person as provided in s. 121.021(46), and  
11 notwithstanding the provisions of the trust, benefits shall be  
12 paid directly to the beneficiary if such person is no longer a  
13 minor or incapacitated as defined in s. 744.102(10) and (11).

14           (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

15           (a) Any person who is retired under this chapter,  
16 except under the disability retirement provisions of  
17 subsection (4), may be employed by an employer that does not  
18 participate in a state-administered retirement system and may  
19 receive compensation from that employment without limiting or  
20 restricting in any way the retirement benefits payable to that  
21 person.

22           (b)1. Any person who is retired under this chapter,  
23 except under the disability retirement provisions of  
24 subsection (4), may be reemployed by any private or public  
25 employer after retirement and receive retirement benefits and  
26 compensation from his or her employer without any limitations,  
27 except that a person may not receive both a salary from  
28 reemployment with any agency participating in the Florida  
29 Retirement System and retirement benefits under this chapter  
30 for a period of 12 months immediately subsequent to the date  
31 of retirement. However, a DROP participant shall continue

1 employment and receive a salary during the period of  
2 participation in the Deferred Retirement Option Program, as  
3 provided in subsection (13).

4           2. Any person to whom the limitation in subparagraph  
5 1. applies who violates such reemployment limitation and who  
6 is reemployed with any agency participating in the Florida  
7 Retirement System before completion of the 12-month limitation  
8 period shall give timely notice of this fact in writing to the  
9 employer and to the division and shall have his or her  
10 retirement benefits suspended for the balance of the 12-month  
11 limitation period. Any person employed in violation of this  
12 paragraph and any employing agency which knowingly employs or  
13 appoints such person without notifying the Division of  
14 Retirement to suspend retirement benefits shall be jointly and  
15 severally liable for reimbursement to the retirement trust  
16 fund of any benefits paid during the reemployment limitation  
17 period. To avoid liability, such employing agency shall have  
18 a written statement from the retiree that he or she is not  
19 retired from a state-administered retirement system. Any  
20 retirement benefits received while reemployed during this  
21 reemployment limitation period shall be repaid to the  
22 retirement trust fund, and retirement benefits shall remain  
23 suspended until such repayment has been made. Benefits  
24 suspended beyond the reemployment limitation shall apply  
25 toward repayment of benefits received in violation of the  
26 reemployment limitation.

27           3. A district school board may reemploy a retired  
28 member as a substitute or hourly teacher, education  
29 paraprofessional, transportation assistant, bus driver, or  
30 food service worker on a noncontractual basis after he or she  
31 has been retired for 1 calendar month, in accordance with s.

1 121.021(39). A district school board may reemploy a retired  
2 member as instructional personnel, as defined in s.  
3 1012.01(2)(a), on an annual contractual basis after he or she  
4 has been retired for 1 calendar month, in accordance with s.  
5 121.021(39). Any other retired member who is reemployed within  
6 1 calendar month after retirement shall void his or her  
7 application for retirement benefits. District school boards  
8 reemploying such teachers, education paraprofessionals,  
9 transportation assistants, bus drivers, or food service  
10 workers are subject to the retirement contribution required by  
11 subparagraph 7.

12         4. A community college board of trustees may reemploy  
13 a retired member as an adjunct instructor, that is, an  
14 instructor who is noncontractual and part-time, or as a  
15 participant in a phased retirement program within the Florida  
16 Community College System, after he or she has been retired for  
17 1 calendar month, in accordance with s. 121.021(39). Any  
18 retired member who is reemployed within 1 calendar month after  
19 retirement shall void his or her application for retirement  
20 benefits. Boards of trustees reemploying such instructors are  
21 subject to the retirement contribution required in  
22 subparagraph 7. A retired member may be reemployed as an  
23 adjunct instructor for no more than 780 hours during the first  
24 12 months of retirement. Any retired member reemployed for  
25 more than 780 hours during the first 12 months of retirement  
26 shall give timely notice in writing to the employer and to the  
27 division of the date he or she will exceed the limitation.  
28 The division shall suspend his or her retirement benefits for  
29 the remainder of the first 12 months of retirement. Any  
30 person employed in violation of this subparagraph and any  
31 employing agency which knowingly employs or appoints such

1 person without notifying the Division of Retirement to suspend  
2 retirement benefits shall be jointly and severally liable for  
3 reimbursement to the retirement trust fund of any benefits  
4 paid during the reemployment limitation period. To avoid  
5 liability, such employing agency shall have a written  
6 statement from the retiree that he or she is not retired from  
7 a state-administered retirement system. Any retirement  
8 benefits received by a retired member while reemployed in  
9 excess of 780 hours during the first 12 months of retirement  
10 shall be repaid to the Retirement System Trust Fund, and  
11 retirement benefits shall remain suspended until repayment is  
12 made. Benefits suspended beyond the end of the retired  
13 member's first 12 months of retirement shall apply toward  
14 repayment of benefits received in violation of the 780-hour  
15 reemployment limitation.

16           5. The State University System may reemploy a retired  
17 member as an adjunct faculty member or as a participant in a  
18 phased retirement program within the State University System  
19 after the retired member has been retired for 1 calendar  
20 month, in accordance with s. 121.021(39). Any retired member  
21 who is reemployed within 1 calendar month after retirement  
22 shall void his or her application for retirement benefits.  
23 The State University System is subject to the retired  
24 contribution required in subparagraph 7., as appropriate. A  
25 retired member may be reemployed as an adjunct faculty member  
26 or a participant in a phased retirement program for no more  
27 than 780 hours during the first 12 months of his or her  
28 retirement. Any retired member reemployed for more than 780  
29 hours during the first 12 months of retirement shall give  
30 timely notice in writing to the employer and to the division  
31 of the date he or she will exceed the limitation. The



1 division shall suspend his or her retirement benefits for the  
2 remainder of the first 12 months of retirement. Any person  
3 employed in violation of this subparagraph and any employing  
4 agency which knowingly employs or appoints such person without  
5 notifying the Division of Retirement to suspend retirement  
6 benefits shall be jointly and severally liable for  
7 reimbursement to the retirement trust fund of any benefits  
8 paid during the reemployment limitation period. To avoid  
9 liability, such employing agency shall have a written  
10 statement from the retiree that he or she is not retired from  
11 a state-administered retirement system. Any retirement  
12 benefits received by a retired member while reemployed in  
13 excess of 780 hours during the first 12 months of retirement  
14 shall be repaid to the Retirement System Trust Fund, and  
15 retirement benefits shall remain suspended until repayment is  
16 made. Benefits suspended beyond the end of the retired  
17 member's first 12 months of retirement shall apply toward  
18 repayment of benefits received in violation of the 780-hour  
19 reemployment limitation.

20           6. The Board of Trustees of the Florida School for the  
21 Deaf and the Blind may reemploy a retired member as a  
22 substitute teacher, substitute residential instructor, or  
23 substitute nurse on a noncontractual basis after he or she has  
24 been retired for 1 calendar month, in accordance with s.  
25 121.021(39). Any retired member who is reemployed within 1  
26 calendar month after retirement shall void his or her  
27 application for retirement benefits. The Board of Trustees of  
28 the Florida School for the Deaf and the Blind reemploying such  
29 teachers, residential instructors, or nurses is subject to the  
30 retirement contribution required by subparagraph 7.  
31 Reemployment of a retired member as a substitute teacher,

1 substitute residential instructor, or substitute nurse is  
2 limited to 780 hours during the first 12 months of his or her  
3 retirement. Any retired member reemployed for more than 780  
4 hours during the first 12 months of retirement shall give  
5 timely notice in writing to the employer and to the division  
6 of the date he or she will exceed the limitation. The division  
7 shall suspend his or her retirement benefits for the remainder  
8 of the first 12 months of retirement. Any person employed in  
9 violation of this subparagraph and any employing agency which  
10 knowingly employs or appoints such person without notifying  
11 the Division of Retirement to suspend retirement benefits  
12 shall be jointly and severally liable for reimbursement to the  
13 retirement trust fund of any benefits paid during the  
14 reemployment limitation period. To avoid liability, such  
15 employing agency shall have a written statement from the  
16 retiree that he or she is not retired from a  
17 state-administered retirement system. Any retirement benefits  
18 received by a retired member while reemployed in excess of 780  
19 hours during the first 12 months of retirement shall be repaid  
20 to the Retirement System Trust Fund, and his or her retirement  
21 benefits shall remain suspended until payment is made.

22 Benefits suspended beyond the end of the retired member's  
23 first 12 months of retirement shall apply toward repayment of  
24 benefits received in violation of the 780-hour reemployment  
25 limitation.

26         7. The employment by an employer of any retiree or  
27 DROP participant of any state-administered retirement system  
28 shall have no effect on the average final compensation or  
29 years of creditable service of the retiree or DROP  
30 participant. Prior to July 1, 1991, upon employment of any  
31 person, other than an elected officer as provided in s.

1 121.053, who has been retired under any state-administered  
2 retirement program, the employer shall pay retirement  
3 contributions in an amount equal to the unfunded actuarial  
4 liability portion of the employer contribution which would be  
5 required for regular members of the Florida Retirement System.  
6 Effective July 1, 1991, contributions shall be made as  
7 provided in s. 121.122 for retirees with renewed membership or  
8 subsection (13) with respect to DROP participants.

9           8. Any person who has previously retired and who is  
10 holding an elective public office or an appointment to an  
11 elective public office eligible for the Elected Officers'  
12 Class on or after July 1, 1990, shall be enrolled in the  
13 Florida Retirement System as provided in s. 121.053(1)(b) or,  
14 if holding an elective public office that does not qualify for  
15 the Elected Officers' Class on or after July 1, 1991, shall be  
16 enrolled in the Florida Retirement System as provided in s.  
17 121.122, and shall continue to receive retirement benefits as  
18 well as compensation for the elected officer's service for as  
19 long as he or she remains in elective office. However, any  
20 retired member who served in an elective office prior to July  
21 1, 1990, suspended his or her retirement benefit, and had his  
22 or her Florida Retirement System membership reinstated shall,  
23 upon retirement from such office, have his or her retirement  
24 benefit recalculated to include the additional service and  
25 compensation earned.

26           9. Any person who is holding an elective public office  
27 which is covered by the Florida Retirement System and who is  
28 concurrently employed in nonelected covered employment may  
29 elect to retire while continuing employment in the elective  
30 public office, provided that he or she shall be required to  
31 terminate his or her nonelected covered employment. Any

1 person who exercises this election shall receive his or her  
2 retirement benefits in addition to the compensation of the  
3 elective office without regard to the time limitations  
4 otherwise provided in this subsection. No person who seeks to  
5 exercise the provisions of this subparagraph, as the same  
6 existed prior to May 3, 1984, shall be deemed to be retired  
7 under those provisions, unless such person is eligible to  
8 retire under the provisions of this subparagraph, as amended  
9 by chapter 84-11, Laws of Florida.

10           10. The limitations of this paragraph apply to  
11 reemployment in any capacity with an "employer" as defined in  
12 s. 121.021(10), irrespective of the category of funds from  
13 which the person is compensated.

14           11. An employing agency may reemploy a retired member  
15 as a firefighter or paramedic after the retired member has  
16 been retired for 1 calendar month, in accordance with s.  
17 121.021(39). Any retired member who is reemployed within 1  
18 calendar month after retirement shall void his or her  
19 application for retirement benefits. The employing agency  
20 reemploying such firefighter or paramedic is subject to the  
21 retired contribution required in subparagraph 8. Reemployment  
22 of a retired firefighter or paramedic is limited to no more  
23 than 780 hours during the first 12 months of his or her  
24 retirement. Any retired member reemployed for more than 780  
25 hours during the first 12 months of retirement shall give  
26 timely notice in writing to the employer and to the division  
27 of the date he or she will exceed the limitation. The division  
28 shall suspend his or her retirement benefits for the remainder  
29 of the first 12 months of retirement. Any person employed in  
30 violation of this subparagraph and any employing agency which  
31 knowingly employs or appoints such person without notifying

1 the Division of Retirement to suspend retirement benefits  
2 shall be jointly and severally liable for reimbursement to the  
3 Retirement System Trust Fund of any benefits paid during the  
4 reemployment limitation period. To avoid liability, such  
5 employing agency shall have a written statement from the  
6 retiree that he or she is not retired from a  
7 state-administered retirement system. Any retirement benefits  
8 received by a retired member while reemployed in excess of 780  
9 hours during the first 12 months of retirement shall be repaid  
10 to the Retirement System Trust Fund, and retirement benefits  
11 shall remain suspended until repayment is made. Benefits  
12 suspended beyond the end of the retired member's first 12  
13 months of retirement shall apply toward repayment of benefits  
14 received in violation of the 780-hour reemployment limitation.

15 (10) FUTURE BENEFITS BASED ON ACTUARIAL DATA.--It is  
16 the intent of the Legislature that future benefit increases  
17 enacted into law in this chapter shall be financed  
18 concurrently by increased contributions or other adequate  
19 funding, and such funding shall be based on sound actuarial  
20 data as developed by the actuary or state retirement actuary,  
21 as provided in ss. 121.021(6) and 121.192.

22 (11) A member who becomes eligible to retire and has  
23 accumulated the maximum benefit of 100 percent of average  
24 final compensation may continue in active service, and, if  
25 upon the member's retirement the member elects to receive a  
26 retirement compensation pursuant to subsection (2), subsection  
27 (6), or subsection (7), the actuarial equivalent percentage  
28 factor applicable to the age of such member at the time the  
29 member reached the maximum benefit and to the age, at that  
30 time, of the member's spouse shall determine the amount of  
31 benefits to be paid.

1           (12) SPECIAL PROVISIONS FOR PAYMENT OF CERTAIN  
2 SURVIVOR BENEFITS.--Notwithstanding any provision of this  
3 chapter to the contrary, for members with an effective date of  
4 retirement, or date of death if prior to retirement, on or  
5 after January 1, 1996, the named joint annuitant, as defined  
6 in s. 121.021(28)(b), who is eligible to receive benefits  
7 under subparagraph (6)(a)3. or subparagraph (6)(a)4., shall  
8 receive the maximum monthly retirement benefit that would have  
9 been payable to the member under subparagraph (6)(a)1.;  
10 however, payment of such benefit shall cease the month the  
11 joint annuitant attains age 25 unless such joint annuitant is  
12 disabled and incapable of self-support, in which case,  
13 benefits shall cease when the joint annuitant is no longer  
14 disabled. The administrator may require proof of disability  
15 or continued disability in the same manner as is provided for  
16 a member seeking or receiving a disability retirement benefit  
17 under subsection (4).

18           (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,  
19 and subject to the provisions of this section, the Deferred  
20 Retirement Option Program, hereinafter referred to as the  
21 DROP, is a program under which an eligible member of the  
22 Florida Retirement System may elect to participate, deferring  
23 receipt of retirement benefits while continuing employment  
24 with his or her Florida Retirement System employer. The  
25 deferred monthly benefits shall accrue in the System Trust  
26 Fund on behalf of the participant, plus interest compounded  
27 monthly, for the specified period of the DROP participation,  
28 as provided in paragraph (c). Upon termination of employment,  
29 the participant shall receive the total DROP benefits and  
30 begin to receive the previously determined normal retirement  
31 benefits. Participation in the DROP does not guarantee

1 employment for the specified period of DROP. Participation in  
2 the DROP by an eligible member beyond the initial 60-month  
3 period as authorized in this subsection shall be on an annual  
4 contractual basis for all participants.

5 (a) Eligibility of member to participate in the  
6 DROP.--All active Florida Retirement System members in a  
7 regularly established position, and all active members of  
8 either the Teachers' Retirement System established in chapter  
9 238 or the State and County Officers' and Employees'  
10 Retirement System established in chapter 122 which systems are  
11 consolidated within the Florida Retirement System under s.  
12 121.011, are eligible to elect participation in the DROP  
13 provided that:

14 1. The member is not a renewed member of the Florida  
15 Retirement System under s. 121.122, or a member of the State  
16 Community College System Optional Retirement Program under s.  
17 121.051, the Senior Management Service Optional Annuity  
18 Program under s. 121.055, or the optional retirement program  
19 for the State University System under s. 121.35.

20 2. Except as provided in subparagraph 6., election to  
21 participate is made within 12 months immediately following the  
22 date on which the member first reaches normal retirement date,  
23 or, for a member who reaches normal retirement date based on  
24 service before he or she reaches age 62, or age 55 for Special  
25 Risk Class members, election to participate may be deferred to  
26 the 12 months immediately following the date the member  
27 attains 57, or age 52 for Special Risk Class members. For a  
28 member who first reached normal retirement date or the  
29 deferred eligibility date described above prior to the  
30 effective date of this section, election to participate shall  
31 be made within 12 months after the effective date of this

1 section. A member who fails to make an election within such  
2 12-month limitation period shall forfeit all rights to  
3 participate in the DROP. The member shall advise his or her  
4 employer and the division in writing of the date on which the  
5 DROP shall begin. Such beginning date may be subsequent to the  
6 12-month election period, but must be within the 60-month or,  
7 with respect to members who are instructional personnel  
8 employed by the Florida School for the Deaf and the Blind and  
9 who have received authorization by the Board of Trustees of  
10 the Florida School for the Deaf and the Blind to participate  
11 in the DROP beyond 60 months, or who are instructional  
12 personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12  
13 and who have received authorization by the district school  
14 superintendent to participate in the DROP beyond 60 months,  
15 the 96-month limitation period as provided in subparagraph  
16 (b)1. When establishing eligibility of the member to  
17 participate in the DROP for the 60-month or, with respect to  
18 members who are instructional personnel employed by the  
19 Florida School for the Deaf and the Blind and who have  
20 received authorization by the Board of Trustees of the Florida  
21 School for the Deaf and the Blind to participate in the DROP  
22 beyond 60 months, or who are instructional personnel as  
23 defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have  
24 received authorization by the district school superintendent  
25 to participate in the DROP beyond 60 months, the 96-month  
26 maximum participation period, the member may elect to include  
27 or exclude any optional service credit purchased by the member  
28 from the total service used to establish the normal retirement  
29 date. A member with dual normal retirement dates shall be  
30 eligible to elect to participate in DROP within 12 months  
31 after attaining normal retirement date in either class.



1           3. The employer of a member electing to participate in  
2 the DROP, or employers if dually employed, shall acknowledge  
3 in writing to the division the date the member's participation  
4 in the DROP begins and the date the member's employment and  
5 DROP participation will terminate.

6           4. Simultaneous employment of a participant by  
7 additional Florida Retirement System employers subsequent to  
8 the commencement of participation in the DROP shall be  
9 permissible provided such employers acknowledge in writing a  
10 DROP termination date no later than the participant's existing  
11 termination date or the 60-month limitation period as provided  
12 in subparagraph (b)1.

13           5. A DROP participant may change employers while  
14 participating in the DROP, subject to the following:

15           a. A change of employment must take place without a  
16 break in service so that the member receives salary for each  
17 month of continuous DROP participation. If a member receives  
18 no salary during a month, DROP participation shall cease  
19 unless the employer verifies a continuation of the employment  
20 relationship for such participant pursuant to s.  
21 121.021(39)(b).

22           b. Such participant and new employer shall notify the  
23 division on forms required by the division as to the identity  
24 of the new employer.

25           c. The new employer shall acknowledge, in writing, the  
26 participant's DROP termination date, which may be extended but  
27 not beyond the original 60-month or, with respect to members  
28 who are instructional personnel employed by the Florida School  
29 for the Deaf and the Blind and who have received authorization  
30 by the Board of Trustees of the Florida School for the Deaf  
31 and the Blind to participate in the DROP beyond 60 months, or

1 who are instructional personnel as defined in s.  
2 1012.01(2)(a)-(d) in grades K-12 and who have received  
3 authorization by the district school superintendent to  
4 participate in the DROP beyond 60 months, the 96-month period  
5 provided in subparagraph (b)1., shall acknowledge liability  
6 for any additional retirement contributions and interest  
7 required if the participant fails to timely terminate  
8 employment, and shall be subject to the adjustment required in  
9 sub-subparagraph (c)5.d.

10           6. Effective July 1, 2001, for instructional personnel  
11 as defined in s. 1012.01(2), election to participate in the  
12 DROP shall be made at any time following the date on which the  
13 member first reaches normal retirement date. The member shall  
14 advise his or her employer and the division in writing of the  
15 date on which the Deferred Retirement Option Program shall  
16 begin. When establishing eligibility of the member to  
17 participate in the DROP for the 60-month or, with respect to  
18 members who are instructional personnel employed by the  
19 Florida School for the Deaf and the Blind and who have  
20 received authorization by the Board of Trustees of the Florida  
21 School for the Deaf and the Blind to participate in the DROP  
22 beyond 60 months, or who are instructional personnel as  
23 defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have  
24 received authorization by the district school superintendent  
25 to participate in the DROP beyond 60 months, the 96-month  
26 maximum participation period, as provided in subparagraph  
27 (b)1., the member may elect to include or exclude any optional  
28 service credit purchased by the member from the total service  
29 used to establish the normal retirement date. A member with  
30 dual normal retirement dates shall be eligible to elect to  
31 participate in either class.

1           (b) Participation in the DROP.--  
2           1. An eligible member may elect to participate in the  
3 DROP for a period not to exceed a maximum of 60 calendar  
4 months or, with respect to members who are instructional  
5 personnel employed by the Florida School for the Deaf and the  
6 Blind and who have received authorization by the Board of  
7 Trustees of the Florida School for the Deaf and the Blind to  
8 participate in the DROP beyond 60 months, or who are  
9 instructional personnel as defined in s. 1012.01(2)(a)-(d) in  
10 grades K-12 and who have received authorization by the  
11 district school superintendent to participate in the DROP  
12 beyond 60 calendar months, 96 calendar months immediately  
13 following the date on which the member first reaches his or  
14 her normal retirement date or the date to which he or she is  
15 eligible to defer his or her election to participate as  
16 provided in subparagraph (a)2. However, a member who has  
17 reached normal retirement date prior to the effective date of  
18 the DROP shall be eligible to participate in the DROP for a  
19 period of time not to exceed 60 calendar months or, with  
20 respect to members who are instructional personnel employed by  
21 the Florida School for the Deaf and the Blind and who have  
22 received authorization by the Board of Trustees of the Florida  
23 School for the Deaf and the Blind to participate in the DROP  
24 beyond 60 months, or who are instructional personnel as  
25 defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have  
26 received authorization by the district school superintendent  
27 to participate in the DROP beyond 60 calendar months, 96  
28 calendar months immediately following the effective date of  
29 the DROP, except a member of the Special Risk Class who has  
30 reached normal retirement date prior to the effective date of  
31 the DROP and whose total accrued value exceeds 75 percent of

1 average final compensation as of his or her effective date of  
2 retirement shall be eligible to participate in the DROP for no  
3 more than 36 calendar months immediately following the  
4 effective date of the DROP.

5           2. Upon deciding to participate in the DROP, the  
6 member shall submit, on forms required by the division:

7           a. A written election to participate in the DROP;

8           b. Selection of the DROP participation and termination  
9 dates, which satisfy the limitations stated in paragraph (a)  
10 and subparagraph 1. Such termination date shall be in a  
11 binding letter of resignation with the employer, establishing  
12 a deferred termination date. The member may change the  
13 termination date within the limitations of subparagraph 1.,  
14 but only with the written approval of his or her employer;

15           c. A properly completed DROP application for service  
16 retirement as provided in this section; and

17           d. Any other information required by the division.

18           3. The DROP participant shall be a retiree under the  
19 Florida Retirement System for all purposes, except for  
20 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,  
21 121.053, and 121.122. However, participation in the DROP does  
22 not alter the participant's employment status and such  
23 employee shall not be deemed retired from employment until his  
24 or her deferred resignation is effective and termination  
25 occurs as provided in s. 121.021(39).

26           4. Elected officers shall be eligible to participate  
27 in the DROP subject to the following:

28           a. An elected officer who reaches normal retirement  
29 date during a term of office may defer the election to  
30 participate in the DROP until the next succeeding term in that  
31 office. Such elected officer who exercises this option may

1 participate in the DROP for up to 60 calendar months or a  
2 period of no longer than such succeeding term of office,  
3 whichever is less.

4           b. An elected or a nonelected participant may run for  
5 a term of office while participating in DROP and, if elected,  
6 extend the DROP termination date accordingly, except, however,  
7 if such additional term of office exceeds the 60-month  
8 limitation established in subparagraph 1., and the officer  
9 does not resign from office within such 60-month limitation,  
10 the retirement and the participant's DROP shall be null and  
11 void as provided in sub-subparagraph (c)5.d.

12           c. An elected officer who is dually employed and  
13 elects to participate in DROP shall be required to satisfy the  
14 definition of termination within the 60-month or, with respect  
15 to members who are instructional personnel employed by the  
16 Florida School for the Deaf and the Blind and who have  
17 received authorization by the Board of Trustees of the Florida  
18 School for the Deaf and the Blind to participate in the DROP  
19 beyond 60 months, or who are instructional personnel as  
20 defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have  
21 received authorization by the district school superintendent  
22 to participate in the DROP beyond 60 months, the 96-month  
23 limitation period as provided in subparagraph 1. for the  
24 nonelected position and may continue employment as an elected  
25 officer as provided in s. 121.053. The elected officer will be  
26 enrolled as a renewed member in the Elected Officers' Class or  
27 the Regular Class, as provided in ss. 121.053 and 121.22, on  
28 the first day of the month after termination of employment in  
29 the nonelected position and termination of DROP. Distribution  
30 of the DROP benefits shall be made as provided in paragraph  
31 (c).

1 (c) Benefits payable under the DROP.--

2 1. Effective with the date of DROP participation, the  
3 member's initial normal monthly benefit, including creditable  
4 service, optional form of payment, and average final  
5 compensation, and the effective date of retirement shall be  
6 fixed. The beneficiary established under the Florida  
7 Retirement System shall be the beneficiary eligible to receive  
8 any DROP benefits payable if the DROP participant dies prior  
9 to the completion of the period of DROP participation. In the  
10 event a joint annuitant predeceases the member, the member may  
11 name a beneficiary to receive accumulated DROP benefits  
12 payable. Such retirement benefit, the annual cost of living  
13 adjustments provided in s. 121.101, and interest shall accrue  
14 monthly in the System Trust Fund. Such interest shall accrue  
15 at an effective annual rate of 6.5 percent compounded monthly,  
16 on the prior month's accumulated ending balance, up to the  
17 month of termination or death.

18 2. Each employee who elects to participate in the DROP  
19 shall be allowed to elect to receive a lump-sum payment for  
20 accrued annual leave earned in accordance with agency policy  
21 upon beginning participation in the DROP. Such accumulated  
22 leave payment certified to the division upon commencement of  
23 DROP shall be included in the calculation of the member's  
24 average final compensation. The employee electing such  
25 lump-sum payment upon beginning participation in DROP will not  
26 be eligible to receive a second lump-sum payment upon  
27 termination, except to the extent the employee has earned  
28 additional annual leave which combined with the original  
29 payment does not exceed the maximum lump-sum payment allowed  
30 by the employing agency's policy or rules. Such early  
31 lump-sum payment shall be based on the hourly wage of the

1 employee at the time he or she begins participation in the  
2 DROP. If the member elects to wait and receive such lump-sum  
3 payment upon termination of DROP and termination of employment  
4 with the employer, any accumulated leave payment made at that  
5 time cannot be included in the member's retirement benefit,  
6 which was determined and fixed by law when the employee  
7 elected to participate in the DROP.

8 3. The effective date of DROP participation and the  
9 effective date of retirement of a DROP participant shall be  
10 the first day of the month selected by the member to begin  
11 participation in the DROP, provided such date is properly  
12 established, with the written confirmation of the employer,  
13 and the approval of the division, on forms required by the  
14 division.

15 4. Normal retirement benefits and interest thereon  
16 shall continue to accrue in the DROP until the established  
17 termination date of the DROP, or until the participant  
18 terminates employment or dies prior to such date. Although  
19 individual DROP accounts shall not be established, a separate  
20 accounting of each participant's accrued benefits under the  
21 DROP shall be calculated and provided to participants.

22 5. At the conclusion of the participant's DROP, the  
23 division shall distribute the participant's total accumulated  
24 DROP benefits, subject to the following provisions:

25 a. The division shall receive verification by the  
26 participant's employer or employers that such participant has  
27 terminated employment as provided in s. 121.021(39)(b).

28 b. The terminated DROP participant or, if deceased,  
29 such participant's named beneficiary, shall elect on forms  
30 provided by the division to receive payment of the DROP  
31 benefits in accordance with one of the options listed below.

1 For a participant or beneficiary who fails to elect a method  
2 of payment within 60 days of termination of the DROP, the  
3 division will pay a lump sum as provided in  
4 sub-sub-subparagraph (I).

5 (I) Lump sum.--All accrued DROP benefits, plus  
6 interest, less withholding taxes remitted to the Internal  
7 Revenue Service, shall be paid to the DROP participant or  
8 surviving beneficiary.

9 (II) Direct rollover.--All accrued DROP benefits, plus  
10 interest, shall be paid from the DROP directly to the  
11 custodian of an eligible retirement plan as defined in s.  
12 402(c)(8)(B) of the Internal Revenue Code. However, in the  
13 case of an eligible rollover distribution to the surviving  
14 spouse of a deceased participant, an eligible retirement plan  
15 is an individual retirement account or an individual  
16 retirement annuity as described in s. 402(c)(9) of the  
17 Internal Revenue Code.

18 (III) Partial lump sum.--A portion of the accrued DROP  
19 benefits shall be paid to the DROP participant or surviving  
20 spouse, less withholding taxes remitted to the Internal  
21 Revenue Service, and the remaining DROP benefits shall be  
22 transferred directly to the custodian of an eligible  
23 retirement plan as defined in s. 402(c)(8)(B) of the Internal  
24 Revenue Code. However, in the case of an eligible rollover  
25 distribution to the surviving spouse of a deceased  
26 participant, an eligible retirement plan is an individual  
27 retirement account or an individual retirement annuity as  
28 described in s. 402(c)(9) of the Internal Revenue Code. The  
29 proportions shall be specified by the DROP participant or  
30 surviving beneficiary.

31



1           c. The form of payment selected by the DROP  
2 participant or surviving beneficiary complies with the minimum  
3 distribution requirements of the Internal Revenue Code.

4           d. A DROP participant who fails to terminate  
5 employment as defined in s. 121.021(39)(b) shall be deemed not  
6 to be retired, and the DROP election shall be null and void.  
7 Florida Retirement System membership shall be reestablished  
8 retroactively to the date of the commencement of the DROP, and  
9 each employer with whom the participant continues employment  
10 shall be required to pay to the System Trust Fund the  
11 difference between the DROP contributions paid in paragraph  
12 (i) and the contributions required for the applicable Florida  
13 Retirement System class of membership during the period the  
14 member participated in the DROP, plus 6.5 percent interest  
15 compounded annually.

16           6. The accrued benefits of any DROP participant, and  
17 any contributions accumulated under such program, shall not be  
18 subject to assignment, execution, attachment, or to any legal  
19 process whatsoever, except for qualified domestic relations  
20 orders by a court of competent jurisdiction, income deduction  
21 orders as provided in s. 61.1301, and federal income tax  
22 levies.

23           7. DROP participants shall not be eligible for  
24 disability retirement benefits as provided in subsection (4).

25           (d) Death benefits under the DROP.--

26           1. Upon the death of a DROP participant, the named  
27 beneficiary shall be entitled to apply for and receive the  
28 accrued benefits in the DROP as provided in sub-subparagraph  
29 (c)5.b.

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1           2. The normal retirement benefit accrued to the DROP  
2 during the month of a participant's death shall be the final  
3 monthly benefit credited for such DROP participant.

4           3. Eligibility to participate in the DROP terminates  
5 upon death of the participant. If the participant dies on or  
6 after the effective date of enrollment in the DROP, but prior  
7 to the first monthly benefit being credited to the DROP,  
8 Florida Retirement System benefits shall be paid in accordance  
9 with subparagraph (7)(c)1. or subparagraph 2.

10           4. A DROP participants' survivors shall not be  
11 eligible to receive Florida Retirement System death benefits  
12 as provided in paragraph (7)(d).

13           (e) Cost-of-living adjustment.--On each July 1, the  
14 participants' normal retirement benefit shall be increased as  
15 provided in s. 121.101.

16           (f) Retiree health insurance subsidy.--DROP  
17 participants are not eligible to apply for the retiree health  
18 insurance subsidy payments as provided in s. 112.363 until  
19 such participants have terminated employment and participation  
20 in the DROP.

21           (g) Renewed membership.--DROP participants shall not  
22 be eligible for renewed membership in the Florida Retirement  
23 System under ss. 121.053 and 121.122 until termination of  
24 employment is effectuated as provided in s. 121.021(39)(b).

25           (h) Employment limitation after DROP  
26 participation.--Upon satisfying the definition of termination  
27 of employment as provided in s. 121.021(39)(b), DROP  
28 participants shall be subject to such reemployment limitations  
29 as other retirees. Reemployment restrictions applicable to  
30 retirees as provided in subsection (9) shall not apply to DROP  
31

1 participants until their employment and participation in the  
2 DROP are terminated.

3 (i) Contributions.--

4 1. All employers paying the salary of a DROP  
5 participant filling a regularly established position shall  
6 contribute 8.0 percent of such participant's gross  
7 compensation for the period of July 1, 2002, through June 30,  
8 2003, and 11.56 percent of such compensation thereafter, which  
9 shall constitute the entire employer DROP contribution with  
10 respect to such participant. Such contributions, payable to  
11 the System Trust Fund in the same manner as required in s.  
12 121.071, shall be made as appropriate for each pay period and  
13 are in addition to contributions required for social security  
14 and the Retiree Health Insurance Subsidy Trust Fund. Such  
15 employer, social security, and health insurance subsidy  
16 contributions are not included in the DROP.

17 2. The employer shall, in addition to subparagraph 1.,  
18 also withhold one-half of the entire social security  
19 contribution required for the participant. Contributions for  
20 social security by each participant and each employer, in the  
21 amount required for social security coverage as now or  
22 hereafter provided by the federal Social Security Act, shall  
23 be in addition to contributions specified in subparagraph 1.

24 3. All employers paying the salary of a DROP  
25 participant filling a regularly established position shall  
26 contribute the percent of such participant's gross  
27 compensation required in s. 121.071(4), which shall constitute  
28 the employer's health insurance subsidy contribution with  
29 respect to such participant. Such contributions shall be  
30 deposited by the administrator in the Retiree Health Insurance  
31 Subsidy Trust Fund.

1           (j) Forfeiture of retirement benefits.--Nothing in  
2 this section shall be construed to remove DROP participants  
3 from the scope of s. 8(d), Art. II of the State Constitution,  
4 s. 112.3173, and paragraph (5)(f). DROP participants who  
5 commit a specified felony offense while employed will be  
6 subject to forfeiture of all retirement benefits, including  
7 DROP benefits, pursuant to those provisions of law.

8           (k) Administration of program.--The division shall  
9 make such rules as are necessary for the effective and  
10 efficient administration of this subsection. The division  
11 shall not be required to advise members of the federal tax  
12 consequences of an election related to the DROP but may advise  
13 members to seek independent advice.

14           (14) PAYMENT OF BENEFITS.--This subsection applies to  
15 the payment of benefits to a payee (retiree or beneficiary)  
16 under the Florida Retirement System:

17           (a) Federal income tax shall be withheld in accordance  
18 with federal law, unless the payee elects otherwise on Form  
19 W-4P. The division shall prepare and distribute to each  
20 recipient of monthly retirement benefits an appropriate income  
21 tax form that reflects the recipient's income and federal  
22 income tax withheld for the calendar year just ended.

23           (b) Subject to approval by the division in accordance  
24 with rule 60S-4.015, Florida Administrative Code, a payee  
25 receiving retirement benefits under the Florida Retirement  
26 System may also have the following payments deducted from his  
27 or her monthly benefit:

28           1. Premiums for life and health-related insurance  
29 policies from approved companies.

30  
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1           2. Life insurance premiums for the State Group Life  
2 Insurance Plan, if authorized in writing by the payee and by  
3 the Department of Management Services.

4           3. Repayment of overpayments from the Florida  
5 Retirement System Trust Fund, the State Employees' Health  
6 Insurance Trust Fund, or the State Employees' Life Insurance  
7 Trust Fund, upon notification of the payee.

8           4. Payments to an alternate payee for alimony, child  
9 support, or division of marital assets pursuant to a qualified  
10 domestic relations order under s. 222.21 or an income  
11 deduction order under s. 61.1301.

12           5. Payments to the Internal Revenue Service for  
13 federal income tax levies, upon notification of the division  
14 by the Internal Revenue Service.

15           (c) A payee shall notify the division of any change in  
16 his or her address. The division may suspend benefit payments  
17 to a payee if correspondence sent to the payee's mailing  
18 address is returned due to an incorrect address. Benefit  
19 payments shall be resumed upon notification to the division of  
20 the payee's new address.

21           (d) A payee whose retirement benefits are reduced by  
22 the application of maximum benefit limits under s. 415(b) of  
23 the Internal Revenue Code, as specified in s. 121.30(5), shall  
24 have the portion of his or her calculated benefit in the  
25 Florida Retirement System defined benefit plan which exceeds  
26 such federal limitation paid through the Florida Retirement  
27 System Preservation of Benefits Plan, as provided in s.  
28 121.1001.

29           (e) No benefit may be reduced for the purpose of  
30 preserving the member's eligibility for a federal program.

31

1 (f) The division shall adopt rules establishing  
2 procedures for determining that the persons to whom benefits  
3 are being paid are still living. The division shall suspend  
4 the benefits being paid to any payee when it is unable to  
5 contact such payee and to confirm that he or she is still  
6 living.

7 Section 25. Subsection (1) of section 121.095, Florida  
8 Statutes, is amended to read:

9 121.095 Florida Retirement System Preservation of  
10 Benefits Plan Trust Fund.--

11 (1) The Florida Retirement System Preservation of  
12 Benefits Plan Trust Fund is created in the State Treasury to  
13 be administered by the State Board of Administration ~~within~~  
14 ~~the Division of Retirement.~~

15 (a) Funds to be credited to the trust fund shall  
16 consist of Florida Retirement System monthly retirement  
17 contributions required to meet the requirements for payment of  
18 restored benefits under the Florida Retirement System  
19 Preservation of Benefits Plan, as specified in s. 121.1001.

20 (b) The trust fund shall be maintained and utilized  
21 solely for the purpose of providing benefits under the  
22 Preservation of Benefits Plan, as specified in s. 121.1001.

23 (c) The trust fund shall be separate and apart from  
24 the Florida Retirement System Trust Fund. The trust fund  
25 moneys and assets shall not be commingled with nor ever  
26 receive a transfer of moneys and assets from the remainder of  
27 the Florida Retirement System, including, but not limited to,  
28 the Florida Retirement System Trust Fund, or any other  
29 qualified retirement plan administered by the Division of  
30 Retirement.

31

1 (d) The trust fund shall be funded on a month-to-month  
2 basis. Trust fund assets shall not be accumulated to pay  
3 future benefits.

4 Section 26. Paragraph (b) of subsection (7) of section  
5 121.101, Florida Statutes, is amended to read:

6 121.101 Cost-of-living adjustment of benefits.--

7 (7) The purpose of this subsection is to establish a  
8 supplemental cost-of-living adjustment for certain retirees  
9 and beneficiaries who receive monthly retirement benefits  
10 under the provisions of this chapter and the existing systems  
11 consolidated therein, s. 112.05 for certain state officers and  
12 employees, and s. 238.171 for certain elderly incapacitated  
13 teachers.

14 (b) Application for the supplemental cost-of-living  
15 adjustment provided by this subsection shall include  
16 certification by the retiree or annuitant that he or she is  
17 not receiving, and is not eligible to receive, social security  
18 benefits and shall include written authorization for the  
19 division ~~department~~ to have access to information from the  
20 Social Security Administration concerning his or her  
21 entitlement to, or eligibility for, social security benefits.  
22 Such supplemental cost-of-living adjustment shall not be paid  
23 unless and until the application requirements of this  
24 paragraph are met.

25 Section 27. Paragraph (e) of subsection (2) of section  
26 121.111, Florida Statutes, is amended to read:

27 121.111 Credit for military service.--

28 (2) Any member whose initial date of employment is  
29 before January 1, 1987, who has military service as defined in  
30 s. 121.021(20)(b), and who does not claim such service under  
31

1 subsection (1) may receive creditable service for such  
2 military service if:  
3 (e) Any member claiming credit under this subsection  
4 must certify on the form prescribed by the division ~~department~~  
5 that credit for such service has not and will not be claimed  
6 for retirement purposes under any other federal, state, or  
7 local retirement or pension system where "length of service"  
8 is a factor in determining the amount of compensation  
9 received, except where credit for such service has been  
10 granted in a pension system providing retired pay for  
11 nonregular service as provided in paragraph (d). If the member  
12 dies prior to retirement, the member's beneficiary must make  
13 the required certification before credit may be claimed. If  
14 such certification is not made by the member or the member's  
15 beneficiary, credit for wartime military service shall not be  
16 allowed.

17 Section 28. Section 121.133, Florida Statutes, is  
18 amended to read:

19 121.133 Cancellation of uncashed  
20 warrants.--Notwithstanding the provisions of s. 17.26 or s.  
21 717.123 to the contrary, if any state warrant issued by the  
22 Chief Financial Officer for the payment of retirement benefits  
23 from the Florida Retirement System Trust Fund, or any other  
24 pension trust fund administered by the division ~~department~~, is  
25 not presented for payment within 1 year after the last day of  
26 the month in which it was originally issued, the Chief  
27 Financial Officer shall cancel the benefit warrant and credit  
28 the amount of the warrant to the Florida Retirement System  
29 Trust Fund or other pension trust fund administered by the  
30 division ~~department~~, as appropriate. The division ~~department~~  
31



1 may provide for issuance of a replacement warrant when deemed  
2 appropriate.

3 Section 29. Section 121.135, Florida Statutes, is  
4 amended to read:

5 121.135 Annual report to Legislature concerning the  
6 Florida Retirement System ~~state-administered retirement~~  
7 ~~systems.~~--The board ~~department~~ shall make to each regular  
8 session of the Legislature a written report on the operation  
9 and condition of the Florida Retirement System ~~the~~  
10 ~~state-administered retirement systems.~~

11 Section 30. Section 121.136, Florida Statutes, is  
12 amended to read:

13 121.136 Annual benefit statement to  
14 members.--Beginning January 1, 1993, and each January  
15 thereafter, the board ~~department~~ shall provide each active  
16 member of the Florida Retirement System with 5 or more years  
17 of creditable service an annual statement of benefits. Such  
18 statement should provide the member with basic data about the  
19 member's retirement account. Minimally, it shall include the  
20 member's retirement plan, the amount of funds on deposit in  
21 the retirement account, and an estimate of retirement  
22 benefits.

23 Section 31. Section 121.1905, Florida Statutes, is  
24 amended to read:

25 121.1905 Division of Retirement; mission creation.--

26 ~~(1) There is created the Division of Retirement within~~  
27 ~~the Department of Management Services.~~

28 ~~(2)~~ The mission of the Division of Retirement is to  
29 provide quality and cost-effective retirement services as  
30 measured by member satisfaction and by comparison with  
31 administrative costs of comparable retirement systems.

1           Section 32. Section 121.192, Florida Statutes, is  
2 amended to read:

3           121.192 State retirement actuary.--The division  
4 ~~department~~ may employ an actuary. Such actuary shall, together  
5 with such other duties as the administrator assigns ~~secretary~~  
6 ~~may assign~~, be responsible for:

7           (1) Advising the administrator ~~secretary~~ on actuarial  
8 matters of the state retirement systems.

9           (2) Making periodic valuations of the retirement  
10 systems.

11           (3) Providing actuarial analyses to the Legislature  
12 concerning proposed changes in the retirement systems.

13           (4) Assisting the administrator ~~secretary~~ in  
14 developing a sound and modern retirement system.

15           Section 33. Section 121.193, Florida Statutes, is  
16 amended to read:

17           121.193 External compliance audits.--

18           (1) The division ~~department~~ shall conduct audits of  
19 the payroll and personnel records of participating agencies.  
20 These audits shall be made to determine the accuracy of  
21 reports submitted to the division ~~department~~ and to assess the  
22 degree of compliance with applicable statutes, rules, and  
23 coverage agreements. Audits shall be scheduled on a regular  
24 basis, as the result of concerns known to exist at an agency,  
25 or as a followup to ensure agency action was taken to correct  
26 deficiencies found in an earlier audit.

27           (2) Upon request, participating agencies shall furnish  
28 the division ~~department~~ with information and documents that  
29 the division ~~department~~ requires to conduct the audit. The  
30 division ~~department~~ may prescribe by rule the documents that  
31 may be requested.

1           (3) The division ~~department~~ shall review the agency's  
2 operations concerning retirement and social security coverage.  
3 Preliminary findings shall be discussed with agency personnel  
4 at the close of the audit. An audit report of findings and  
5 recommendations shall be submitted to division ~~department~~  
6 management and an audit summary letter shall be submitted to  
7 the agency noting any concerns and necessary corrective  
8 action.

9           Section 34. Subsection (1) of section 121.22, Florida  
10 Statutes, is amended to read:

11           121.22 State Retirement Commission; creation;  
12 membership; compensation.--

13           (1) There is created within the Division of Retirement  
14 ~~Department of Management Services~~ a State Retirement  
15 Commission composed of three members: One member who is  
16 retired under a state-supported retirement system administered  
17 by the division ~~department~~; one member who is an active member  
18 of a state-supported retirement system that is administered by  
19 the division ~~department~~; and one member who is neither a  
20 retiree, beneficiary, or member of a state-supported  
21 retirement system administered by the division ~~department~~.  
22 Each member shall have a different occupational background  
23 from the other members.

24           Section 35. Subsection (1) of section 121.23, Florida  
25 Statutes, is amended to read:

26           121.23 Disability retirement and special risk  
27 membership applications; Retirement Commission; powers and  
28 duties; judicial review.--The provisions of this section apply  
29 to all proceedings in which the administrator has made a  
30 written final decision on the merits respecting applications  
31 for disability retirement, reexamination of retired members

1 receiving disability benefits, applications for special risk  
2 membership, and reexamination of special risk members in the  
3 Florida Retirement System. The jurisdiction of the State  
4 Retirement Commission under this section shall be limited to  
5 written final decisions of the administrator on the merits.

6 (1) In accordance with the rules of procedure adopted  
7 by the division ~~Department of Management Services~~, the  
8 administrator shall:

9 (a) Give reasonable notice of his or her proposed  
10 action, or decision to refuse action, together with a summary  
11 of the factual, legal, and policy grounds therefor.

12 (b) Give affected members, or their counsel, an  
13 opportunity to present to the division written evidence in  
14 opposition to the proposed action or refusal to act or a  
15 written statement challenging the grounds upon which the  
16 administrator has chosen to justify his or her action or  
17 inaction.

18 (c) If the objections of the member are overruled,  
19 provide a written explanation within 21 days.

20 Section 36. Subsections (2), (3), and (4) of section  
21 121.24, Florida Statutes, are amended to read:

22 121.24 Conduct of commission business; legal and other  
23 assistance; compensation.--

24 (2) Legal counsel for the commission may be provided  
25 by the Department of Legal Affairs or by the division  
26 ~~Department of Management Services~~, with the concurrence of the  
27 commission, and shall be paid by the division ~~Department of~~  
28 ~~Management Services~~ from the appropriate funds.

29 (3) The division ~~Department of Management Services~~  
30 shall provide timely and appropriate training for newly  
31 appointed members of the commission. Such training shall be

1 designed to acquaint new members of the commission with the  
2 duties and responsibilities of the commission.

3 (4) The division ~~Department of Management Services~~  
4 shall furnish administrative and secretarial assistance to the  
5 commission and shall provide a place where the commission may  
6 hold its meetings.

7 Section 37. Subsection (9) of section 121.30, Florida  
8 Statutes, is amended to read:

9 121.30 Statements of purpose and intent and other  
10 provisions required for qualification under the Internal  
11 Revenue Code of the United States.--Any other provisions in  
12 this chapter to the contrary notwithstanding, it is  
13 specifically provided that:

14 (9) The division ~~department~~ may adopt any rule  
15 necessary to accomplish the purpose of the section which is  
16 not inconsistent with this chapter.

17 Section 38. Paragraph (c) of subsection (2),  
18 paragraphs (c) and (e) of subsection (3), paragraphs (a), (b),  
19 and (c) of subsection (4), and subsection (6) of section  
20 121.35, Florida Statutes, are amended to read:

21 121.35 Optional retirement program for the State  
22 University System.--

23 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL  
24 PROGRAM.--

25 (c) For purposes of this section, the State Board of  
26 Administration ~~Department of Management Services~~ is referred  
27 to as the "board department."

28 (3) ELECTION OF OPTIONAL PROGRAM.--

29 (c) Any employee who becomes eligible to participate  
30 in the optional retirement program on or after January 1,  
31 1993, shall be a compulsory participant of the program unless

1 such employee elects membership in the Florida Retirement  
2 System. Such election shall be made in writing and filed with  
3 the personnel officer of the employer. Any eligible employee  
4 who fails to make such election within the prescribed time  
5 period shall be deemed to have elected to participate in the  
6 optional retirement program.

7         1. Any employee whose optional retirement program  
8 eligibility results from initial employment shall be enrolled  
9 in the program at the commencement of employment. If, within  
10 90 days after commencement of employment, the employee elects  
11 membership in the Florida Retirement System, such membership  
12 shall be effective retroactive to the date of commencement of  
13 employment.

14         2. Any employee whose optional retirement program  
15 eligibility results from a change in status due to the  
16 subsequent designation of the employee's position as one of  
17 those specified in paragraph (2)(a) or due to the employee's  
18 appointment, promotion, transfer, or reclassification to a  
19 position specified in paragraph (2)(a) shall be enrolled in  
20 the optional retirement program upon such change in status and  
21 shall be notified by the employer of such action. If, within  
22 90 days after the date of such notification, the employee  
23 elects to retain membership in the Florida Retirement System,  
24 such continuation of membership shall be retroactive to the  
25 date of the change in status.

26         3. Notwithstanding the provisions of this paragraph,  
27 effective July 1, 1997, any employee who is eligible to  
28 participate in the Optional Retirement Program and who fails  
29 to execute a contract with one of the approved companies and  
30 to notify the board ~~department~~ in writing as provided in  
31 subsection (4) within 90 days after the date of eligibility

1 shall be deemed to have elected membership in the Florida  
2 Retirement System, except as provided in s. 121.051(1)(a).  
3 This provision shall also apply to any employee who terminates  
4 employment in an eligible position before executing the  
5 required annuity contract and notifying the board ~~department~~.  
6 Such membership shall be retroactive to the date of  
7 eligibility, and all appropriate contributions shall be  
8 transferred to the Florida Retirement System Trust Fund and  
9 the Health Insurance Subsidy Trust Fund.

10 (e) The election by an eligible employee to  
11 participate in the optional retirement program shall be  
12 irrevocable for so long as the employee continues to meet the  
13 eligibility requirements specified in subsection (2), except  
14 as provided in paragraph (h). In the event that an employee  
15 participates in the optional retirement program for 90 days or  
16 more and is subsequently employed in an administrative or  
17 professional position which has been determined by the board  
18 ~~department~~, under subparagraph (2)(a)2., to be not otherwise  
19 eligible for participation in the optional retirement program,  
20 the employee shall continue participation in the optional  
21 program so long as the employee meets the other eligibility  
22 requirements for the program, except as provided in paragraph  
23 (h).

24 (4) CONTRIBUTIONS.--

25 (a) Through June 30, 2001, each employer shall  
26 contribute on behalf of each participant in the optional  
27 retirement program an amount equal to the normal cost portion  
28 of the employer retirement contribution which would be  
29 required if the participant were a regular member of the  
30 Florida Retirement System defined benefit program, plus the  
31 portion of the contribution rate required in s. 112.363(8)

1 that would otherwise be assigned to the Retiree Health  
2 Insurance Subsidy Trust Fund. Effective July 1, 2001, each  
3 employer shall contribute on behalf of each participant in the  
4 optional program an amount equal to 10.43 percent of the  
5 participant's gross monthly compensation. The board, pursuant  
6 to s. 215.44(4),~~department~~ shall deduct an amount ~~approved by~~  
7 ~~the Legislature~~ to provide for the administration of this  
8 program. The payment of the contributions to the optional  
9 program which is required by this paragraph for each  
10 participant shall be made by the employer to the board  
11 ~~department~~, which shall forward the contributions to the  
12 designated company or companies contracting for payment of  
13 benefits for the participant under the program. However, such  
14 contributions paid on behalf of an employee described in  
15 paragraph (3)(c) shall not be forwarded to a company and shall  
16 not begin to accrue interest until the employee has executed  
17 an annuity contract and notified the board ~~department~~.

18 (b) Each employer shall contribute on behalf of each  
19 participant in the optional retirement program an amount equal  
20 to the unfunded actuarial accrued liability portion of the  
21 employer contribution which would be required for members of  
22 the Florida Retirement System. This contribution shall be paid  
23 to the board ~~department~~ for transfer to the Florida Retirement  
24 System Trust Fund.

25 (c) An Optional Retirement Program Trust Fund shall be  
26 established in the State Treasury and administered by the  
27 board ~~department~~ to make payments to the provider companies on  
28 behalf of the optional retirement program participants, and to  
29 transfer the unfunded liability portion of the state optional  
30 retirement program contributions to the Florida Retirement  
31 System Trust Fund.



1           (6) ADMINISTRATION OF PROGRAM.--  
2           (a) The optional retirement program authorized by this  
3 section shall be administered by the board department. The  
4 ~~board department~~ shall adopt rules establishing the  
5 responsibilities of the State Board of Education and  
6 institutions in the State University System in administering  
7 the optional retirement program. The State Board of Education  
8 shall, no more than 90 days after July 1, 1983, submit to the  
9 ~~board department~~ its recommendations for the contracts to be  
10 offered by the companies chosen by the board department. The  
11 recommendations of the State Board of Education shall include  
12 the following:  
13           1. The nature and extent of the rights and benefits in  
14 relation to the required contributions; and  
15           2. The suitability of the rights and benefits to the  
16 needs of the participants and the interests of the  
17 institutions in the recruitment and retention of eligible  
18 employees.  
19           (b) After receiving and considering the  
20 recommendations of the State Board of Education, the board  
21 ~~department~~ shall designate no more than four companies from  
22 which contracts may be purchased under the program and shall  
23 approve the form and content of the optional retirement  
24 program contracts. Upon application by a qualified Florida  
25 domestic company, the board ~~department~~ shall give reasonable  
26 notice to all other such companies that it intends to  
27 designate one of such companies as a fifth company from which  
28 contracts may be purchased pursuant to this section and that  
29 they may apply for such designation prior to the deadline  
30 established by said notice. At least 60 days after giving such  
31 notice and upon receipt of the recommendation of the State

1 Board of Education, the board ~~department~~ shall so designate  
2 one of such companies as the fifth company from which such  
3 contracts may be purchased.

4 (c) ~~Effective July 1, 1997, the State Board of~~  
5 ~~Administration shall review and make recommendations to the~~  
6 ~~department on the acceptability of all investment products~~  
7 ~~proposed by provider companies of the optional retirement~~  
8 ~~program before they are offered through annuity contracts to~~  
9 ~~the participants and may advise the department of any changes~~  
10 ~~necessary to ensure that the optional retirement program~~  
11 ~~offers an acceptable mix of investment products. The board~~  
12 ~~department shall determine which make the final determination~~  
13 ~~as to whether an investment products product will be included~~  
14 ~~in approved for the program.~~

15 (d) The provisions of each contract applicable to a  
16 participant in the optional retirement program shall be  
17 contained in a written program description which shall include  
18 a report of pertinent financial and actuarial information on  
19 the solvency and actuarial soundness of the program and the  
20 benefits applicable to the participant. Such description shall  
21 be furnished by the companies to each participant in the  
22 program and to the board ~~department~~ upon commencement of  
23 participation in the program and annually thereafter.

24 (e) The board ~~department~~ shall ensure that each  
25 participant in the optional retirement program is provided an  
26 accounting of the total contribution and the annual  
27 contribution made by and on behalf of such participant.

28 Section 39. Paragraph (b) of subsection (3), paragraph  
29 (a) of subsection (12), and paragraphs (a) and (b) of  
30 subsection (14) of section 121.40, Florida Statutes, are  
31 amended to read:

1           121.40 Cooperative extension personnel at the  
2 Institute of Food and Agricultural Sciences; supplemental  
3 retirement benefits.--

4           (3) DEFINITIONS.--The definitions provided in s.  
5 121.021 shall not apply to this section except when  
6 specifically cited. For the purposes of this section, the  
7 following words or phrases have the respective meanings set  
8 forth:

9           (b) "Division Department" means the Division of  
10 Retirement of the State Board of Administration ~~Department of~~  
11 ~~Management Services~~.

12           (12) CONTRIBUTIONS.--

13           (a) For the purposes of funding the supplemental  
14 benefits provided by this section, the institute is authorized  
15 and required to pay, commencing July 1, 1985, the necessary  
16 monthly contributions from its appropriated budget. These  
17 amounts shall be paid into the Institute of Food and  
18 Agricultural Sciences Supplemental Retirement Trust Fund,  
19 which is hereby created in the State Treasury to be  
20 administered by the State Board of Administration.

21           (14) ADMINISTRATION OF SYSTEM.--

22           (a) The division department shall make such rules as  
23 are necessary for the effective and efficient administration  
24 of this system. The executive director of the State Board of  
25 Administration ~~secretary of the department~~ shall be the  
26 administrator of the system. The funds to pay the expenses for  
27 such administration are ~~shall be~~ appropriated from the  
28 interest earned on investments made for the trust fund.

29           (b) The division department is authorized to require  
30 oaths, by affidavit or otherwise, and acknowledgments from  
31

1 persons in connection with the administration of its duties  
2 and responsibilities under this section.

3 Section 40. Subsection (3) of section 121.45, Florida  
4 Statutes, is amended to read:

5 121.45 Interstate compacts relating to pension  
6 portability.--

7 (3) ESTABLISHMENT OF COMPACTS.--

8 (a) The division ~~Department of Management Services~~ is  
9 authorized and directed to survey other state retirement  
10 systems to determine if such retirement systems are interested  
11 in developing an interstate compact with Florida.

12 (b) If any such state is interested in pursuing the  
13 matter, the division ~~department~~ shall confer with the other  
14 state and the consulting actuaries of both states, and shall  
15 present its findings to the committees having jurisdiction  
16 over retirement matters in the Legislature, and to  
17 representatives of affected certified bargaining units, in  
18 order to determine the feasibility of developing a portability  
19 compact, what groups should be covered, and the goals and  
20 priorities which should guide such development.

21 (c) Upon a determination that such a compact is  
22 feasible and upon request of the Legislature, the division  
23 ~~department~~, together with its consulting actuaries, shall, in  
24 accordance with such ~~said~~ goals and priorities, develop a  
25 proposal under which retirement credit may be transferred to  
26 or from Florida in an actuarially sound manner.

27 (d) Once a proposal has been developed, the division  
28 ~~department~~ shall contract with its consulting actuaries to  
29 conduct an actuarial study of the proposal to determine the  
30 cost to the Florida Retirement System Trust Fund and the State  
31 of Florida.

1 (e) After the actuarial study has been completed, the  
2 division ~~department~~ shall present its findings and the  
3 actuarial study to the Legislature for consideration. If  
4 either house of the Legislature elects to enter into such a  
5 compact, it shall be introduced in the form of a proposed  
6 committee bill to the full Legislature during the same or next  
7 regular session.

8 Section 41. Subsection (2), paragraph (a) of  
9 subsection (5), paragraphs (a), (b), (c), and (e) of  
10 subsection (8), paragraph (c) of subsection (9), paragraphs  
11 (a), (c), and (f) of subsection (10), subsection (11), and  
12 subsection (19) of section 121.4501, Florida Statutes, are  
13 amended to read:

14 121.4501 Public Employee Optional Retirement  
15 Program.--

16 (2) DEFINITIONS.--As used in this part, the term:

17 (a) "Approved provider" or "provider" means a private  
18 sector company that is selected and approved by the ~~state~~  
19 board to offer one or more investment products or services to  
20 the Public Employee Optional Retirement Program. The term  
21 includes a bundled provider that offers participants a range  
22 of individually allocated or unallocated investment products  
23 and may offer a range of administrative and customer services,  
24 which may include accounting and administration of individual  
25 participant benefits and contributions; individual participant  
26 recordkeeping; asset purchase, control, and safekeeping;  
27 direct execution of the participant's instructions as to asset  
28 and contribution allocation; calculation of daily net asset  
29 values; direct access to participant account information;  
30 periodic reporting to participants, at least quarterly, on  
31 account balances and transactions; guidance, advice, and

1 allocation services directly relating to its own investment  
2 options or products, but only if the bundled provider complies  
3 with the standard of care of s. 404(a)(1)(A-B) of the Employee  
4 Retirement Income Security Act of 1974 (ERISA) and if  
5 providing such guidance, advice, or allocation services does  
6 not constitute a prohibited transaction under s. 4975(c)(1) of  
7 the Internal Revenue Code or s. 406 of ERISA, notwithstanding  
8 that such prohibited transaction provisions do not apply to  
9 the optional retirement program; a broad array of distribution  
10 options; asset allocation; and retirement counseling and  
11 education. Private sector companies include investment  
12 management companies, insurance companies, depositories, and  
13 mutual fund companies.

14 (b) "Average monthly compensation" means one-twelfth  
15 of average final compensation as defined in s. 121.021(24).

16 (c) "Covered employment" means employment in a  
17 regularly established position as defined in s. 121.021(52).

18 ~~(d) "Department" means the Department of Management~~  
19 ~~Services.~~

20 (d)(e) "Division" means the Division of Retirement of  
21 the State Board of Administration ~~within the Department of~~  
22 ~~Management Services.~~

23 (e)(f) "Eligible employee" means an officer or  
24 employee, as defined in s. 121.021(11), who:

25 1. Is a member of, or is eligible for membership in,  
26 the Florida Retirement System, including any renewed member of  
27 the Florida Retirement System;

28 2. Participates in, or is eligible to participate in,  
29 the Senior Management Service Optional Annuity Program as  
30 established under s. 121.055(6) or the State Community College  
31

1 Optional Retirement Program as established under s.  
2 121.051(2)(c); or  
3 3. Is eligible to participate in, but does not  
4 participate in, the State University System Optional  
5 Retirement Program established under s. 121.35.  
6  
7 The term does not include any member participating in the  
8 Deferred Retirement Option Program established under s.  
9 121.091(13) or any employee participating in an optional  
10 retirement program established under s. 121.051(2)(c) or s.  
11 121.35.  
12 (f)~~(g)~~ "Employer" means an employer, as defined in s.  
13 121.021(10), of an eligible employee.  
14 (g)~~(h)~~ "Participant" means an eligible employee who  
15 elects to participate in the Public Employee Optional  
16 Retirement Program and enrolls in such optional program as  
17 provided in subsection (4).  
18 (h)~~(i)~~ "Public Employee Optional Retirement Program,"  
19 "optional program," or "optional retirement program" means the  
20 alternative defined contribution retirement program  
21 established under this section.  
22 (i)~~(j)~~ "State board" or "board" means the State Board  
23 of Administration.  
24 (j)~~(k)~~ "Trustees" means Trustees of the State Board of  
25 Administration.  
26 (k)~~(l)~~ "Vested" or "vesting" means the guarantee that  
27 a participant is eligible to receive a retirement benefit upon  
28 completion of the required years of service under the Public  
29 Employee Optional Retirement Program.  
30 (5) CONTRIBUTIONS.--  
31

1           (a) Each employer shall contribute on behalf of each  
2 participant in the Public Employee Optional Retirement  
3 Program, as provided in part III of this chapter. The state  
4 board, acting as plan fiduciary, shall ensure that all plan  
5 assets are held in a trust, pursuant to s. 401 of the Internal  
6 Revenue Code. The fiduciary shall ensure that said  
7 contributions are allocated as follows:

8           1. The portion earmarked for participant accounts  
9 shall be used to purchase interests in the appropriate  
10 investment vehicles for the accounts of each participant as  
11 specified by the participant, or in accordance with paragraph  
12 (4)(d).

13           2. The portion earmarked for administrative and  
14 educational expenses shall be transferred to the board.

15           3. The portion earmarked for disability benefits shall  
16 be transferred to the division ~~department~~.

17           (8) ADMINISTRATION OF PROGRAM.--

18           (a) The Public Employee Optional Retirement Program  
19 shall be administered by the state board and affected  
20 employers. The board is authorized to require oaths, by  
21 affidavit or otherwise, and acknowledgments from persons in  
22 connection with the administration of its duties and  
23 responsibilities under this chapter. No oath, by affidavit or  
24 otherwise, shall be required of an employee participant at the  
25 time of election. Acknowledgment of an employee's election to  
26 participate in the program shall be no greater than necessary  
27 to confirm the employee's election. The board shall adopt  
28 rules establishing the role and responsibilities of affected  
29 state, local government, and education-related employers, the  
30 state board, ~~the department~~, and third-party contractors in  
31 administering the Public Employee Optional Retirement Program.



1 The division ~~department~~ shall adopt rules necessary to  
2 implement the optional program in coordination with the  
3 defined benefit retirement program and the disability benefits  
4 available under the optional program.

5 (b)1. The state board shall select and contract with  
6 one third-party administrator to provide administrative  
7 services if those services cannot be competitively ~~and~~  
8 ~~contractually~~ provided by the division of Retirement within  
9 ~~the Department of Management Services~~. With the approval of  
10 the state board, the third-party administrator may subcontract  
11 with other organizations or individuals to provide components  
12 of the administrative services. As a cost of administration,  
13 the board may compensate any such contractor for its services,  
14 in accordance with the terms of the contract, as is deemed  
15 necessary or proper by the board. The third-party  
16 administrator may not be an approved provider or be affiliated  
17 with an approved provider.

18 2. These administrative services may include, but are  
19 not limited to, enrollment of eligible employees, collection  
20 of employer contributions, disbursement of such contributions  
21 to approved providers in accordance with the allocation  
22 directions of participants; services relating to consolidated  
23 billing; individual and collective recordkeeping and  
24 accounting; asset purchase, control, and safekeeping; and  
25 direct disbursement of funds to and from the third-party  
26 administrator, the division, the board, employers,  
27 participants, approved providers, and beneficiaries. This  
28 section does not prevent or prohibit a bundled provider from  
29 providing any administrative or customer service, including  
30 accounting and administration of individual participant  
31 benefits and contributions; individual participant

1 recordkeeping; asset purchase, control, and safekeeping;  
2 direct execution of the participant's instructions as to asset  
3 and contribution allocation; calculation of daily net asset  
4 values; direct access to participant account information; or  
5 periodic reporting to participants, at least quarterly, on  
6 account balances and transactions, if these services are  
7 authorized by the board as part of the contract.

8           3. The state board shall select and contract with one  
9 or more organizations to provide educational services. With  
10 approval of the board, the organizations may subcontract with  
11 other organizations or individuals to provide components of  
12 the educational services. As a cost of administration, the  
13 board may compensate any such contractor for its services in  
14 accordance with the terms of the contract, as is deemed  
15 necessary or proper by the board. The education organization  
16 may not be an approved provider or be affiliated with an  
17 approved provider.

18           4. Educational services shall be designed by the board  
19 ~~and department~~ to assist employers, eligible employees,  
20 participants, and beneficiaries in order to maintain  
21 compliance with United States Department of Labor regulations  
22 under s. 404(c) of the Employee Retirement Income Security Act  
23 of 1974 and to assist employees in their choice of defined  
24 benefit or defined contribution retirement alternatives.  
25 Educational services include, but are not limited to,  
26 disseminating educational materials; providing retirement  
27 planning education; explaining the differences between the  
28 defined benefit retirement plan and the defined contribution  
29 retirement plan; and offering financial planning guidance on  
30 matters such as investment diversification, investment risks,  
31 investment costs, and asset allocation. An approved provider

1 may also provide educational information, including retirement  
2 planning and investment allocation information concerning its  
3 products and services.

4 (c)1. In evaluating and selecting a third-party  
5 administrator, the board shall establish criteria under which  
6 it shall consider the relative capabilities and qualifications  
7 of each proposed administrator. In developing such criteria,  
8 the board shall consider:

9 a. The administrator's demonstrated experience in  
10 providing administrative services to public or private sector  
11 retirement systems.

12 b. The administrator's demonstrated experience in  
13 providing daily valued recordkeeping to defined contribution  
14 plans.

15 c. The administrator's ability and willingness to  
16 coordinate its activities with the Florida Retirement System  
17 employers, the board, and the division, and to supply to such  
18 employers, the board, and the division the information and  
19 data they require, including, but not limited to, monthly  
20 management reports, quarterly participant reports, and ad hoc  
21 reports requested by the ~~department or~~ board.

22 d. The cost-effectiveness and levels of the  
23 administrative services provided.

24 e. The administrator's ability to interact with the  
25 participants, the employers, the board, the division, and the  
26 providers; the means by which participants may access account  
27 information, direct investment of contributions, make changes  
28 to their accounts, transfer moneys between available  
29 investment vehicles, and transfer moneys between investment  
30 products; and any fees that apply to such activities.

31

1           f. Any other factor deemed necessary by the Trustees  
2 of the State Board of Administration.

3           g. The recommendations of the Public Employee Optional  
4 Retirement Program Advisory Committee established in  
5 subsection (12).

6           2. In evaluating and selecting an educational  
7 provider, the board shall establish criteria under which it  
8 shall consider the relative capabilities and qualifications of  
9 each proposed educational provider. In developing such  
10 criteria, the board shall consider:

11           a. Demonstrated experience in providing educational  
12 services to public or private sector retirement systems.

13           b. Ability and willingness to coordinate its  
14 activities with the Florida Retirement System employers, the  
15 board, and the division, and to supply to such employers, the  
16 board, and the division the information and data they require,  
17 including, but not limited to, reports on educational  
18 contacts.

19           c. The cost-effectiveness and levels of the  
20 educational services provided.

21           d. Ability to provide educational services via  
22 different media, including, but not limited to, the Internet,  
23 personal contact, seminars, brochures, and newsletters.

24           e. Any other factor deemed necessary by the Trustees  
25 of the State Board of Administration.

26           f. The recommendations of the Public Employee Optional  
27 Retirement Program Advisory Committee established in  
28 subsection (12).

29           3. The establishment of the criteria shall be solely  
30 within the discretion of the board.

31

1           (e) ~~1~~. The board may contract with any consultant for  
2 professional services, including legal, consulting,  
3 accounting, and actuarial services, deemed necessary to  
4 implement and administer the optional program by the Trustees  
5 of the State Board of Administration. The board may enter into  
6 a contract with one or more vendors to provide low-cost  
7 investment advice to participants, supplemental to education  
8 provided by the third-party administrator. All fees under any  
9 such contract shall be paid by those participants who choose  
10 to use the services of the vendor.

11           ~~2. The department may contract with consultants for~~  
12 ~~professional services, including legal, consulting,~~  
13 ~~accounting, and actuarial services, deemed necessary to~~  
14 ~~implement and administer the optional program in coordination~~  
15 ~~with the defined benefit program of the Florida Retirement~~  
16 ~~System. The department, in coordination with the board, may~~  
17 ~~enter into a contract with the third-party administrator in~~  
18 ~~order to coordinate services common to the various programs~~  
19 ~~within the Florida Retirement System.~~

20           (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE  
21 REVIEW.--

22           (c) In evaluating and selecting approved providers and  
23 products, the board shall establish criteria under which it  
24 shall consider the relative capabilities and qualifications of  
25 each proposed provider company and product. In developing such  
26 criteria, the board shall consider the following to the extent  
27 such factors may be applied in connection with investment  
28 products, services, or providers:

29           1. Experience in the United States providing  
30 retirement products and related financial services under  
31 defined contribution retirement plans.

1           2. Financial strength and stability which shall be  
2 evidenced by the highest ratings assigned by nationally  
3 recognized rating services when comparing proposed providers  
4 that are so rated.

5           3. Intrastate and interstate portability of the  
6 product offered, including early withdrawal options.

7           4. Compliance with the Internal Revenue Code.

8           5. The cost-effectiveness of the product provided and  
9 the levels of service supporting the product relative to its  
10 benefits and its characteristics, including, without  
11 limitation, the level of risk borne by the provider.

12          6. The provider company's ability and willingness to  
13 coordinate its activities with Florida Retirement System  
14 employers, the division ~~department~~, and the board, and to  
15 supply to such employers, the division ~~department~~, and the  
16 board the information and data they require.

17          7. The methods available to participants to interact  
18 with the provider company; the means by which participants may  
19 access account information, direct investment of  
20 contributions, make changes to their accounts, transfer moneys  
21 between available investment vehicles, and transfer moneys  
22 between provider companies; and any fees that apply to such  
23 activities.

24          8. The provider company's policies with respect to the  
25 transfer of individual account balances, contributions, and  
26 earnings thereon, both internally among investment products  
27 offered by the provider company and externally between  
28 approved providers, as well as any fees, charges, reductions,  
29 or penalties that may be applied.

30          9. An evaluation of specific investment products,  
31 taking into account each product's experience in meeting its

1 investment return objectives net of all related fees,  
2 expenses, and charges, including, but not limited to,  
3 investment management fees, loads, distribution and marketing  
4 fees, custody fees, recordkeeping fees, education fees,  
5 annuity expenses, and consulting fees.

6 10. Organizational factors, including, but not limited  
7 to, financial solvency, organizational depth, and experience  
8 in providing institutional and retail investment services.

9 (10) EDUCATION COMPONENT.--

10 (a) The board, ~~in coordination with the department,~~  
11 shall provide for an education component for system members in  
12 a manner consistent with the provisions of this section. The  
13 education component must be available to eligible employees at  
14 least 90 days prior to the beginning date of the election  
15 period for the employees of the respective types of employers.

16 (c) The board, ~~in coordination with the department,~~  
17 shall provide for an initial and ongoing transfer education  
18 component to provide system members with information necessary  
19 to make informed plan choice decisions. The transfer education  
20 component must include, but is not limited to, information on:

21 1. The amount of money available to a member to  
22 transfer to the defined contribution program.

23 2. The features of and differences between the defined  
24 benefit program and the defined contribution program, both  
25 generally and specifically, as those differences may affect  
26 the member.

27 3. The expected benefit available if the member were  
28 to retire under each of the retirement programs, based on  
29 appropriate alternative sets of assumptions.

30 4. The rate of return from investments in the defined  
31 contribution program and the period of time over which such

1 rate of return must be achieved to equal or exceed the  
2 expected monthly benefit payable to the member under the  
3 defined benefit program.

4 5. The historical rates of return for the investment  
5 alternatives available in the defined contribution programs.

6 6. The benefits and historical rates of return on  
7 investments available in a typical deferred compensation plan  
8 or a typical plan under s. 403(b) of the Internal Revenue Code  
9 for which the employee may be eligible.

10 7. The program choices available to employees of the  
11 State University System and the comparative benefits of each  
12 available program, if applicable.

13 8. Payout options available in each of the retirement  
14 programs.

15 (f) The board ~~and the department~~ shall also establish  
16 a communication component to provide program information to  
17 participating employers and the employers' personnel and  
18 payroll officers and to explain their respective  
19 responsibilities in conjunction with the retirement programs.

20 (11) PARTICIPANT INFORMATION REQUIREMENTS.--The board  
21 shall ensure that each participant is provided a quarterly  
22 statement that accounts for the contributions made on behalf  
23 of such participant; the interest and investment earnings  
24 thereon; and any fees, penalties, or other deductions that  
25 apply thereto. At a minimum, such statements must:

26 (a) Indicate the participant's investment options.

27 (b) State the market value of the account at the close  
28 of the current quarter and previous quarter.

29 (c) Show account gains and losses for the period and  
30 changes in account accumulation unit values for the period.

31 (d) Itemize account contributions for the quarter.



1           (e) Indicate any account changes due to adjustment of  
2 contribution levels, reallocation of contributions, balance  
3 transfers, or withdrawals.

4           (f) Set forth any fees, charges, penalties, and  
5 deductions that apply to the account.

6           (g) Indicate the amount of the account in which the  
7 participant is fully vested and the amount of the account in  
8 which the participant is not vested.

9           (h) Indicate each investment product's performance  
10 relative to an appropriate market benchmark.

11  
12 The third-party administrator shall provide quarterly and  
13 annual summary reports to the board and any other reports  
14 requested by ~~the department or~~ the board. In any solicitation  
15 or offer of coverage under an optional retirement program, a  
16 provider company shall be governed by the contract readability  
17 provisions of s. 627.4145, notwithstanding s. 627.4145(6)(c).  
18 In addition, all descriptive materials must be prepared under  
19 the assumption that the participant is an unsophisticated  
20 investor. Provider companies must maintain an internal system  
21 of quality assurance, have proven functional systems that are  
22 date-calculation compliant, and be subject to a due-diligence  
23 inquiry that proves their capacity and fitness to undertake  
24 service responsibilities.

25           (19) PARTICIPANT RECORDS.--All personal identifying  
26 information regarding a participant in the Public Employee  
27 Optional Retirement Program contained in Florida Retirement  
28 System records held by the State Board of Administration ~~or~~  
29 ~~the Department of Management Services,~~ or its ~~their~~ agents,  
30 employees, or contractors is exempt from the provisions of s.  
31 119.07(1) and s. 24(a), Art. I of the State Constitution. The

1 department ~~or board~~ may use such exempt information as  
2 necessary in any legal or administrative proceeding. This  
3 subsection is subject to the Open Government Sunset Review Act  
4 of 1995 in accordance with s. 119.15, and shall stand repealed  
5 October 2, 2007, unless reviewed and saved from repeal through  
6 reenactment by the Legislature.

7 Section 42. Section 121.4503, Florida Statutes, is  
8 amended to read:

9 121.4503 Florida Retirement System Contributions  
10 Clearing Trust Fund.--

11 (1) The Florida Retirement System Contributions  
12 Clearing Trust Fund is created in the State Treasury as a  
13 clearing fund for disbursing employer contributions to the  
14 component plans of the Florida Retirement System and shall be  
15 administered by the State Board of Administration ~~Department~~  
16 ~~of Management Services~~. Funds shall be credited to the trust  
17 fund as provided in this chapter and shall be held in trust  
18 for the contributing employers until such time as the assets  
19 are transferred by the board ~~department~~ to the Florida  
20 Retirement System Trust Fund, the Public Employee Optional  
21 Retirement Program Trust Fund, or other trust funds as  
22 authorized by law, to be used for the purposes of this  
23 chapter. The trust fund is exempt from the service charges  
24 imposed by s. 215.20.

25 (2) The Florida Retirement System Contributions  
26 Clearing Trust Fund is a clearing trust fund of the State  
27 Board of Administration ~~Department of Management Services~~  
28 pursuant to s. 19(f), Art. III of the State Constitution, and  
29 is not subject to termination.

30 (3) The State Board of Administration ~~Department of~~  
31 ~~Management Services~~ may adopt rules governing the receipt and

1 disbursement of amounts received by the Florida Retirement  
2 System Contributions Clearing Trust Fund from employers  
3 contributing to the component plans of the Florida Retirement  
4 System.

5 Section 43. Section 121.591, Florida Statutes, is  
6 amended to read:

7 121.591 Benefits payable under the Public Employee  
8 Optional Retirement Program of the Florida Retirement  
9 System.--Benefits may not be paid under this section unless  
10 the member has terminated employment as provided in s.  
11 121.021(39)(a) or is deceased and a proper application has  
12 been filed in the manner prescribed by the state board or the  
13 division ~~department~~. The state board or division ~~department~~,  
14 as appropriate, may cancel an application for retirement  
15 benefits when the member or beneficiary fails to timely  
16 provide the information and documents required by this chapter  
17 and the rules of the state board and division ~~department~~. In  
18 accordance with their respective responsibilities as provided  
19 herein, the State Board of Administration and the division  
20 ~~Department of Management Services~~ shall adopt rules  
21 establishing procedures for application for retirement  
22 benefits and for the cancellation of such application when the  
23 required information or documents are not received.

24 (1) NORMAL BENEFITS.--Under the Public Employee  
25 Optional Retirement Program:

26 (a) Benefits in the form of vested accumulations as  
27 described in s. 121.4501(6) shall be payable under this  
28 subsection in accordance with the following terms and  
29 conditions:

30 1. To the extent vested, benefits shall be payable  
31 only to a participant.

1           2. Benefits shall be paid by the third-party  
2 administrator or designated approved providers in accordance  
3 with the law, the contracts, and any applicable board rule or  
4 policy.

5           3. To receive benefits under this subsection, the  
6 participant must be terminated from all employment with all  
7 Florida Retirement System employers, as provided in s.  
8 121.021(39).

9           (b) If a participant elects to receive his or her  
10 benefits upon termination of employment, the participant must  
11 submit a written application to the third-party administrator  
12 indicating his or her preferred distribution date and  
13 selecting an authorized method of distribution as provided in  
14 paragraph (c). The participant may defer receipt of benefits  
15 until he or she chooses to make such application, subject to  
16 federal requirements.

17           (c) Upon receipt by the third-party administrator of a  
18 properly executed application for distribution of benefits,  
19 the total accumulated benefit shall be payable to the  
20 participant, as:

21           1. A lump-sum distribution to the participant;

22           2. A lump-sum direct rollover distribution whereby all  
23 accrued benefits, plus interest and investment earnings, are  
24 paid from the participant's account directly to the custodian  
25 of an eligible retirement plan, as defined in s. 402(c)(8)(B)  
26 of the Internal Revenue Code, on behalf of the participant; or

27           3. Periodic distributions, as authorized by the state  
28 board.

29           (2) DISABILITY RETIREMENT BENEFITS.--Benefits provided  
30 under this subsection are payable in lieu of the benefits  
31 which would otherwise be payable under the provisions of

1 subsection (1). Such benefits shall be funded entirely from  
2 employer contributions made under s. 121.571, transferred  
3 participant funds accumulated pursuant to paragraph (a), and  
4 interest and earnings thereon. Pursuant thereto:

5 (a) Transfer of funds.--To qualify to receive monthly  
6 disability benefits under this subsection:

7 1. All moneys accumulated in the participant's Public  
8 Employee Optional Retirement Program accounts, including  
9 vested and nonvested accumulations as described in s.  
10 121.4501(6), shall be transferred from such individual  
11 accounts to the Division of Retirement for deposit in the  
12 disability account of the Florida Retirement System Trust  
13 Fund. Such moneys shall be separately accounted for. Earnings  
14 shall be credited on an annual basis for amounts held in the  
15 disability accounts of the Florida Retirement System Trust  
16 Fund based on actual earnings of the Florida Retirement System  
17 Trust Fund.

18 2. If the participant has retained retirement credit  
19 he or she had earned under the defined benefit program of the  
20 Florida Retirement System as provided in s. 121.4501(3)(b), a  
21 sum representing the actuarial present value of such credit  
22 within the Florida Retirement System Trust Fund shall be  
23 reassigned by the Division of Retirement from the defined  
24 benefit program to the disability program as implemented under  
25 this subsection and shall be deposited in the disability  
26 account of the Florida Retirement System Trust Fund. Such  
27 moneys shall be separately accounted for.

28 (b) Disability retirement; entitlement.--

29 1. A participant of the Public Employee Optional  
30 Retirement Program who becomes totally and permanently  
31 disabled, as defined in s. 121.091(4)(b), after completing 8

1 years of creditable service, or a participant who becomes  
2 totally and permanently disabled in the line of duty  
3 regardless of his or her length of service, shall be entitled  
4 to a monthly disability benefit as provided herein.

5           2. In order for service to apply toward the 8 years of  
6 service required to vest for regular disability benefits, or  
7 toward the creditable service used in calculating a  
8 service-based benefit as provided for under paragraph (g), the  
9 service must be creditable service as described below:

10           a. The participant's period of service under the  
11 Public Employee Optional Retirement Program will be considered  
12 creditable service, except as provided in subparagraph d.

13           b. If the participant has elected to retain credit for  
14 his or her service under the defined benefit program of the  
15 Florida Retirement System as provided under s. 121.4501(3)(b),  
16 all such service will be considered creditable service.

17           c. If the participant has elected to transfer to his  
18 or her participant accounts a sum representing the present  
19 value of his or her retirement credit under the defined  
20 benefit program as provided under s. 121.4501(3)(c), the  
21 period of service under the defined benefit program  
22 represented in the present value amounts transferred will be  
23 considered creditable service for purposes of vesting for  
24 disability benefits, except as provided in subparagraph d.

25           d. Whenever a participant has terminated employment  
26 and has taken distribution of his or her funds as provided in  
27 subsection (1), all creditable service represented by such  
28 distributed funds is forfeited for purposes of this  
29 subsection.

30           (c) Disability retirement effective date.--The  
31 effective retirement date for a participant who applies and is

1 approved for disability retirement shall be established as  
2 provided under s. 121.091(4)(a)2. and 3.

3 (d) Total and permanent disability.--A participant  
4 shall be considered totally and permanently disabled if, in  
5 the opinion of the division, he or she is prevented, by reason  
6 of a medically determinable physical or mental impairment,  
7 from rendering useful and efficient service as an officer or  
8 employee.

9 (e) Proof of disability.--The division, before  
10 approving payment of any disability retirement benefit, shall  
11 require proof that the participant is totally and permanently  
12 disabled in the same manner as provided for members of the  
13 defined benefit program of the Florida Retirement System under  
14 s. 121.091(4)(c).

15 (f) Disability retirement benefit.--Upon the  
16 disability retirement of a participant under this subsection,  
17 the participant shall receive a monthly benefit that shall  
18 begin to accrue on the first day of the month of disability  
19 retirement, as approved by the division, and shall be payable  
20 on the last day of that month and each month thereafter during  
21 his or her lifetime and continued disability. All disability  
22 benefits payable to such member shall be paid out of the  
23 disability account of the Florida Retirement System Trust Fund  
24 established under this subsection.

25 (g) Computation of disability retirement benefit.--The  
26 amount of each monthly payment shall be calculated in the same  
27 manner as provided for members of the defined benefit program  
28 of the Florida Retirement System under s. 121.091(4)(f). For  
29 such purpose, creditable service under both the defined  
30 benefit program and the Public Employee Optional Retirement  
31

1 Program of the Florida Retirement System shall be applicable  
2 as provided under paragraph (b).

3 (h) Reapplication.--A participant whose initial  
4 application for disability retirement has been denied may  
5 reapply for disability benefits in the same manner, and under  
6 the same conditions, as provided for members of the defined  
7 benefit program of the Florida Retirement System under s.  
8 121.091(4)(g).

9 (i) Membership.--Upon approval of an application for  
10 disability benefits under this subsection, the applicant shall  
11 be transferred to the defined benefit program of the Florida  
12 Retirement System, effective upon his or her disability  
13 retirement effective date.

14 (j) Option to cancel.--Any participant whose  
15 application for disability benefits is approved may cancel his  
16 or her application for disability benefits, provided that the  
17 cancellation request is received by the division before a  
18 disability retirement warrant has been deposited, cashed, or  
19 received by direct deposit. Upon such cancellation:

20 1. The participant's transfer to the defined benefit  
21 program under paragraph (i) shall be nullified;

22 2. The participant shall be retroactively reinstated  
23 in the Public Employee Optional Retirement Program without  
24 hiatus;

25 3. All funds transferred to the Florida Retirement  
26 System Trust Fund under paragraph (a) shall be returned to the  
27 participant accounts from which such funds were drawn; and

28 4. The participant may elect to receive the benefit  
29 payable under the provisions of subsection (1) in lieu of  
30 disability benefits as provided under this subsection.

31 (k) Recovery from disability.--



1           1. The division may require periodic reexaminations at  
2 the expense of the disability program account of the Florida  
3 Retirement System Trust Fund. Except as otherwise provided in  
4 subparagraph 2., the requirements, procedures, and  
5 restrictions relating to the conduct and review of such  
6 reexaminations, discontinuation or termination of benefits,  
7 reentry into employment, disability retirement after reentry  
8 into covered employment, and all other matters relating to  
9 recovery from disability shall be the same as are set forth  
10 under s. 121.091(4)(h).

11           2. Upon recovery from disability, any recipient of  
12 disability retirement benefits under this subsection shall be  
13 a compulsory member of the Public Employee Optional Retirement  
14 Program of the Florida Retirement System. The net difference  
15 between the recipient's original account balance transferred  
16 to the Florida Retirement System Trust Fund, including  
17 earnings, under paragraph (a) and total disability benefits  
18 paid to such recipient, if any, shall be determined as  
19 provided in sub-subparagraph a.

20           a. An amount equal to the total benefits paid shall be  
21 subtracted from that portion of the transferred account  
22 balance consisting of vested accumulations as described under  
23 s. 121.4501(6), if any, and an amount equal to the remainder  
24 of benefit amounts paid, if any, shall then be subtracted from  
25 any remaining portion consisting of nonvested accumulations as  
26 described under s. 121.4501(6).

27           b. Amounts subtracted under sub-subparagraph a. shall  
28 be retained within the disability account of the Florida  
29 Retirement System Trust Fund. Any remaining account balance  
30 shall be transferred to the third-party administrator for  
31

1 disposition as provided under sub-subparagraph c. or  
2 sub-subparagraph d., as appropriate.

3 c. If the recipient returns to covered employment,  
4 transferred amounts shall be deposited in individual accounts  
5 under the Public Employee Optional Retirement Program, as  
6 directed by the participant. Vested and nonvested amounts  
7 shall be separately accounted for as provided in s.  
8 121.4501(6).

9 d. If the recipient fails to return to covered  
10 employment upon recovery from disability:

11 (I) Any remaining vested amount shall be deposited in  
12 individual accounts under the Public Employee Optional  
13 Retirement Program, as directed by the participant, and shall  
14 be payable as provided in subsection (1).

15 (II) Any remaining nonvested amount shall be held in a  
16 suspense account and shall be forfeitable after 5 years as  
17 provided in s. 121.4501(6).

18 3. If present value was reassigned from the defined  
19 benefit program to the disability program of the Florida  
20 Retirement System as provided under subparagraph (a)2., the  
21 full present value amount shall be returned to the defined  
22 benefit account within the Florida Retirement System Trust  
23 Fund and the affected individual's associated retirement  
24 credit under the defined benefit program shall be reinstated  
25 in full. Any benefit based upon such credit shall be  
26 calculated as provided in s. 121.091(4)(h)1.

27 (1) Nonadmissible causes of disability.--A participant  
28 shall not be entitled to receive a disability retirement  
29 benefit if the disability results from any injury or disease  
30 sustained or inflicted as described in s. 121.091(4)(i).

31

1 (m) Disability retirement of justice or judge by order  
2 of Supreme Court.--

3 1. If a participant is a justice of the Supreme Court,  
4 judge of a district court of appeal, circuit judge, or judge  
5 of a county court who has served for 6 years or more as an  
6 elected constitutional judicial officer, including service as  
7 a judicial officer in any court abolished pursuant to Art. V  
8 of the State Constitution, and who is retired for disability  
9 by order of the Supreme Court upon recommendation of the  
10 Judicial Qualifications Commission pursuant to the provisions  
11 of Art. V of the State Constitution, the participant's Option  
12 1 monthly disability benefit amount as provided in s.

13 121.091(6)(a)1. shall be two-thirds of his or her monthly  
14 compensation as of the participant's disability retirement  
15 date. Such a participant may alternatively elect to receive  
16 an actuarially adjusted disability retirement benefit under  
17 any other option as provided in s. 121.091(6)(a), or to  
18 receive the normal benefit payable under the Public Employee  
19 Optional Retirement Program as set forth in subsection (1).

20 2. If any justice or judge who is a participant of the  
21 Public Employee Optional Retirement Program of the Florida  
22 Retirement System is retired for disability by order of the  
23 Supreme Court upon recommendation of the Judicial  
24 Qualifications Commission pursuant to the provisions of Art. V  
25 of the State Constitution and elects to receive a monthly  
26 disability benefit under the provisions of this paragraph:

27 a. Any present value amount that was transferred to  
28 his or her program account and all employer contributions made  
29 to such account on his or her behalf, plus interest and  
30 earnings thereon, shall be transferred to and deposited in the  
31

1 disability account of the Florida Retirement System Trust  
2 Fund; and

3           b. The monthly benefits payable under this paragraph  
4 for any affected justice or judge retired from the Florida  
5 Retirement System pursuant to Art. V of the State Constitution  
6 shall be paid from the disability account of the Florida  
7 Retirement System Trust Fund.

8           (n) Death of retiree or beneficiary.--Upon the death  
9 of a disabled retiree or beneficiary thereof who is receiving  
10 monthly benefits under this subsection, the monthly benefits  
11 shall be paid through the last day of the month of death and  
12 shall terminate, or be adjusted, if applicable, as of that  
13 date in accordance with the optional form of benefit selected  
14 at the time of retirement. The deceased disabled retiree's  
15 beneficiary shall also receive the amount of the participant's  
16 remaining account balance, if any, in the Florida Retirement  
17 System Trust Fund. The Division of Retirement ~~Department of~~  
18 ~~Management Services~~ may adopt rules necessary to administer  
19 this paragraph.

20           (3) DEATH BENEFITS.--Under the Public Employee  
21 Optional Retirement Program:

22           (a) Survivor benefits shall be payable in accordance  
23 with the following terms and conditions:

24           1. To the extent vested, benefits shall be payable  
25 only to a participant's beneficiary or beneficiaries as  
26 designated by the participant. If a participant designates a  
27 primary beneficiary other than the participant's spouse, the  
28 participant's spouse shall be notified of the designation.  
29 This requirement shall not apply to the designation of one or  
30 more contingent beneficiaries to receive any benefits

31

1 remaining upon the death of the primary beneficiary or  
2 beneficiaries.

3           2. Benefits shall be paid by the third-party  
4 administrator or designated approved providers in accordance  
5 with the law, the contracts, and any applicable board rule or  
6 policy.

7           3. To receive benefits under this subsection, the  
8 participant must be deceased.

9           (b) In the event of a participant's death, all vested  
10 accumulations as described in s. 121.4501(6), less withholding  
11 taxes remitted to the Internal Revenue Service, shall be  
12 distributed, as provided in paragraph (c), to the  
13 participant's designated beneficiary or beneficiaries, or to  
14 the participant's estate, as if the participant retired on the  
15 date of death. No other death benefits shall be available for  
16 survivors of participants under the Public Employee Optional  
17 Retirement Program, except for such benefits, or coverage for  
18 such benefits, as are otherwise provided by law or are  
19 separately afforded by the employer, at the employer's  
20 discretion.

21           (c) Upon receipt by the third-party administrator of a  
22 properly executed application for distribution of benefits,  
23 the total accumulated benefit shall be payable by the  
24 third-party administrator to the participant's surviving  
25 beneficiary or beneficiaries, as:

26           1. A lump-sum distribution payable to the beneficiary  
27 or beneficiaries, or to the deceased participant's estate;

28           2. An eligible rollover distribution on behalf of the  
29 surviving spouse of a deceased participant, whereby all  
30 accrued benefits, plus interest and investment earnings, are  
31 paid from the deceased participant's account directly to the

1 custodian of an eligible retirement plan, as described in s.  
2 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
3 surviving spouse; or

4 3. A partial lump-sum payment whereby a portion of the  
5 accrued benefit is paid to the deceased participant's  
6 surviving spouse or other designated beneficiaries, less  
7 withholding taxes remitted to the Internal Revenue Service,  
8 and the remaining amount is transferred directly to the  
9 custodian of an eligible retirement plan, as described in s.  
10 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
11 surviving spouse. The proportions must be specified by the  
12 participant or the surviving beneficiary.

13  
14 This paragraph does not abrogate other applicable provisions  
15 of state or federal law providing for payment of death  
16 benefits.

17 (4) LIMITATION ON LEGAL PROCESS.--The benefits payable  
18 to any person under the Public Employee Optional Retirement  
19 Program, and any contributions accumulated under such program,  
20 are not subject to assignment, execution, attachment, or any  
21 legal process, except for qualified domestic relations orders  
22 by a court of competent jurisdiction, income deduction orders  
23 as provided in s. 61.1301, and federal income tax levies.

24 Section 44. Section 121.5911, Florida Statutes, is  
25 amended to read:

26 121.5911 Disability retirement program; qualified  
27 status; rulemaking authority.--It is the intent of the  
28 Legislature that the disability retirement program for  
29 participants of the Public Employee Optional Retirement  
30 Program as created in this act must meet all applicable  
31 requirements of federal law for a qualified plan. The

1 Department of Management Services or the Division of  
2 Retirement shall seek a private letter ruling from the  
3 Internal Revenue Service on the disability retirement program  
4 for participants of the Public Employee Optional Retirement  
5 Program. Consistent with the private letter ruling, the  
6 division ~~Department of Management Services~~ shall adopt any  
7 necessary rules required to maintain the qualified status of  
8 the disability retirement program and the Florida Retirement  
9 System defined benefit plan.

10 Section 45. Subsection (1) of section 121.72, Florida  
11 Statutes, is amended to read:

12 121.72 Allocations to optional retirement program  
13 participant accounts; percentage amounts.--

14 (1) The allocations established in subsection (4)  
15 shall fund retirement benefits under the optional retirement  
16 program and shall be transferred monthly by the State Board of  
17 Administration ~~Division of Retirement~~ from the Florida  
18 Retirement System Contributions Clearing Trust Fund to the  
19 third-party administrator for deposit in each participating  
20 employee's individual account based on the membership class of  
21 the participant.

22 Section 46. Subsection (1) of section 121.73, Florida  
23 Statutes, is amended to read:

24 121.73 Allocations for optional retirement program  
25 participant disability coverage; percentage amounts.--

26 (1) The allocations established in subsection (3)  
27 shall be used to provide disability coverage for participants  
28 in the optional retirement program and shall be transferred  
29 monthly by the State Board of Administration ~~Division of~~  
30 ~~Retirement~~ from the Florida Retirement System Contributions  
31

1 Clearing Trust Fund to the disability account of the Florida  
2 Retirement System Trust Fund.

3 Section 47. Section 121.74, Florida Statutes, is  
4 amended to read:

5 121.74 Administrative and educational  
6 expenses.--Effective July 1, 2003, in addition to  
7 contributions required under s. 121.71, employers  
8 participating in the Florida Retirement System shall  
9 contribute an amount equal to 0.10 percent of the payroll  
10 reported for each class or subclass of Florida Retirement  
11 System membership, which amount shall be transferred by the  
12 State Board of Administration ~~Division of Retirement~~ from the  
13 Florida Retirement System Contributions Clearing Trust Fund to  
14 the board's ~~State Board of Administration's~~ Administrative  
15 Trust Fund to offset the costs of administering the optional  
16 retirement program and the costs of providing educational  
17 services to participants in the defined benefit program and  
18 the optional retirement program. Approval of the Trustees of  
19 the State Board of Administration is required prior to the  
20 expenditure of these funds. Payments for third-party  
21 administrative or educational expenses shall be made only  
22 pursuant to the terms of the approved contracts for such  
23 services.

24 Section 48. Subsections (1) and (6) of section 122.02,  
25 Florida Statutes, are amended to read:

26 122.02 Definitions.--The following words and phrases  
27 as used in this chapter shall have the following meaning  
28 unless a different meaning is plainly required by the context:

29 (1) "State and county officers and employees" shall  
30 include all full-time officers or employees who receive  
31 compensation for services rendered from state or county funds,



1 or from funds of drainage districts or mosquito control  
2 districts of a county or counties, or from funds of the State  
3 Board of Administration or from funds of closed bank  
4 receivership accounts or from funds of any state institution  
5 or who receive compensation for employment or service from any  
6 agency, branch, department, institution or board of the state,  
7 or any county of the state, for service rendered the state or  
8 county from funds from any source provided for their  
9 employment or service regardless of whether the same is paid  
10 by state or county warrant or not; provided that such  
11 compensation in whatever form paid shall be specified in terms  
12 of fixed monthly salaries by the employing state or county  
13 agency or state or county official and shall not include  
14 amounts allowed for professional employees for special or  
15 particular service or for subsistence or travel expenses;  
16 provided further the division ~~department~~ shall prescribe  
17 appropriate procedure for contribution deduction out of such  
18 compensation in accordance with the provisions of this  
19 chapter, provided further that such officers and employees  
20 defined herein shall not include those officers and employees  
21 excepted from the provisions by s. 122.18 of this law.

22 (6) "Division" means the Division of Retirement of the  
23 State Board of Administration ~~"Department" means the~~  
24 ~~Department of Management Services.~~

25 Section 49. Paragraph (d) of subsection (6) and  
26 subsection (9) of section 122.03, Florida Statutes, are  
27 amended to read:

28 122.03 Contributions; participants; prior service  
29 credit.--

30 (6) Any officer or employee who held office or was  
31 employed by the state or a county of the state continuously

1 from May 1, 1959, and who has not previously received credit  
2 for, or is not eligible to claim credit for, prior years of  
3 service under subsection (2); or any officer or employee who  
4 holds office or is employed by the state or a county of the  
5 state on June 1, 1961, and is continuously employed; or any  
6 officer or employee who holds office or is employed by the  
7 state or county of the state after June 1, 1961, and who is  
8 continuously employed for 3 years, during which period of time  
9 no back payments may be made:

10 (d) Prior service allowance may be made only for those  
11 periods in which state or county records of service and salary  
12 are available, or at least three affidavits and such other  
13 information as might be required by the division ~~department~~ to  
14 meet the provisions of this law.

15 (9) The surviving spouse or other dependent of any  
16 member whose employment is terminated by death shall, upon  
17 application to the division ~~department~~, be permitted to pay  
18 the required contributions for any service performed by the  
19 member which could have been claimed by the member at the time  
20 of death. Such service shall be added to the creditable  
21 service of the member and shall be used in the calculation of  
22 any benefits which may be payable to the surviving spouse or  
23 other surviving dependent.

24 Section 50. Subsection (2) of section 122.05, Florida  
25 Statutes, is amended to read:

26 122.05 Legislator services included.--

27 (2) The division ~~department~~ and state officials  
28 administering such ~~said~~ retirement system shall make the  
29 contribution deductions required by law from the compensation  
30 hereafter received by any of the ~~said~~ participating members of  
31

1 the Legislature for service rendered the State Legislature in  
2 the same manner as in the case of other state employment.

3 Section 51. Subsection (2) of section 122.06, Florida  
4 Statutes, is amended to read:

5 122.06 Legislative employee services included.--

6 (2) The division ~~department~~ and other state officials  
7 administering such ~~said~~ retirement system shall make the  
8 contribution deductions required by law from the compensation  
9 hereafter received by any of the such ~~said~~ participating  
10 attaches for service rendered the State Legislature in the  
11 same manner as in the case of other state employment.

12 Section 52. Subsection (2) of section 122.07, Florida  
13 Statutes, is amended to read:

14 122.07 Seasonal state employment included; time limit  
15 and procedure for claiming.--

16 (2) Any state employee as described in subsection (1)  
17 in the classification set forth in s. 122.01 may elect to  
18 receive credit as a state employee under the State and County  
19 Officers and Employees' Retirement System by providing to the  
20 division ~~department~~ a statement from the state in which he or  
21 she was employed, listing days employed and monthly earnings  
22 and such other information as may, in the opinion of the  
23 division ~~department~~, be necessary or appropriate in the  
24 carrying out of this section. Credit shall be granted upon  
25 payment to the division ~~department~~ by such employee of an  
26 amount equal to the total retirement contribution that would  
27 have been required had the member worked in this state during  
28 the period based on the salary drawn by such employee during  
29 his or her last full month of employment by the state or any  
30 department thereof for each month during said fiscal year for  
31 which such employee was not employed by the state or any

1 department thereof, but was employed by some other state, plus  
2 interest compounded annually each June 30 from the date of the  
3 service in another state to the date of payment at the rate of  
4 4 percent until July 1, 1975, and 6.5 percent thereafter. The  
5 member shall have until his or her date of retirement to claim  
6 and purchase credit for such employment in another state.

7 Section 53. Paragraph (a) of subsection (1), paragraph  
8 (b) of subsection (4), and subsections (5) and (9) of section  
9 122.08, Florida Statutes, are amended to read:

10 122.08 Requirements for retirement;  
11 classifications.--There shall be two retirement  
12 classifications for all state and county officers and  
13 employees participating herein as hereafter provided in this  
14 section:

15 (1)(a) Any state or county officer or employee who has  
16 attained normal retirement age, which shall be age 60 for a  
17 person who had become a member prior to July 1, 1963, and age  
18 62 for a person who had or shall become a member on or after  
19 July 1, 1963, and has accumulated at least 10 years' service  
20 in the aggregate within the contemplation of this law, and who  
21 has made or makes contributions to the State and County  
22 Officers and Employees' Retirement Trust Fund for 5 or more  
23 years as prescribed in this law, may voluntarily retire from  
24 office or employment and be entitled to receive retirement  
25 compensation, the amount of which shall be 2 percent for each  
26 year of service rendered, based upon the average final  
27 compensation, payable in equal monthly installments, upon his  
28 or her own requisition. Requisition requirements shall be set  
29 by the division ~~department~~.

30 (4)  
31

1           (b) A member who elects an option in paragraph (a)  
2 shall on a form provided for that purpose designate his or her  
3 spouse as beneficiary to receive the benefits which continue  
4 to be payable upon the death of the member. After such  
5 benefits have commenced under an option in paragraph (a), the  
6 retired member may change the designation of his or her spouse  
7 as beneficiary only twice. If such a retired member remarries  
8 and wishes to make such a change, he or she may do so by  
9 filing with the division ~~department~~ a notarized change of  
10 spouse designation form and shall notify the former spouse in  
11 writing of such change. Upon receipt of a completed change of  
12 spouse designation form, the division ~~department~~ shall adjust  
13 the member's monthly benefit by the application of actuarial  
14 tables and calculations developed to ensure that the benefit  
15 paid is the actuarial equivalent of the present value of the  
16 member's current benefit. The consent of a retired member's  
17 formerly designated spouse as beneficiary to any such change  
18 shall not be required.

19           (5) Tables for computing the actuarial equivalent  
20 shall be approved by the division ~~department~~.

21           (9) Notwithstanding any other provision in this  
22 chapter to the contrary, the following provisions shall apply  
23 to any officer or employee who has accumulated at least 10  
24 years of service and dies:

25           (a) If the deceased member's surviving spouse has  
26 previously received a refund of the member's contributions  
27 made to the retirement trust fund, such spouse may pay to the  
28 division ~~department~~ an amount equal to the sum of the amount  
29 of the deceased member's contributions previously refunded and  
30 interest at 3 percent compounded annually on the amount of  
31 such refunded contributions from the date of refund until July

1 1, 1975, and thereafter at the rate of 6.5 percent interest  
2 compounded annually to the date of payment to the division  
3 ~~department~~, and by so doing be entitled to receive the monthly  
4 retirement benefit provided in paragraph (c).

5 (b) If the deceased member's surviving spouse has not  
6 received a refund of the deceased member's contributions, such  
7 spouse shall, upon application to the division ~~department~~,  
8 receive the monthly retirement benefit provided in paragraph  
9 (c).

10 (c) The monthly benefit payable to the spouse  
11 described in paragraph (a) or paragraph (b) shall be the  
12 amount which would have been payable to the deceased member's  
13 spouse, assuming that the member retired on the date of death  
14 and had selected the option in subsection (4) which would  
15 afford the surviving spouse the greatest amount of benefits,  
16 such benefit to be based on the ages of the spouse and member  
17 as of the date of death of the member. Such benefit shall  
18 commence on the first day of the month following the payment  
19 of the aforesaid amount to the division ~~department~~, if  
20 paragraph (a) is applicable, or on the first day of the month  
21 following the receipt of the spouse's application by the  
22 division ~~department~~, if paragraph (b) is applicable.

23 Section 54. Section 122.09, Florida Statutes, is  
24 amended to read:

25 122.09 Disability retirement; medical  
26 examinations.--Whenever any officer or employee of the state  
27 or county of the state has service credit as such officer or  
28 employee for 10 years within the contemplation of this law,  
29 the last 5 years of which, except for a single break not to  
30 exceed 1 year, must be continuous, unbroken service and who is  
31 regularly contributing to the State and County Officers and

1 Employees' Retirement Trust Fund and shall while holding such  
2 office or employment become permanently and totally disabled,  
3 physically or mentally, or both, from rendering useful and  
4 efficient service as such officer or employee, such officer or  
5 employee may retire from his or her office or employment, and  
6 upon such retirement the officer or employee shall be paid, so  
7 long as the permanent and total disability continues, on his  
8 or her own monthly requisition, from the State and County  
9 Officers and Employees' Retirement Trust Fund hereinafter  
10 established, retirement compensation as provided in s. 122.08;  
11 provided that no officer or employee retiring under this  
12 section shall receive less than 50 percent of his or her  
13 average final compensation not to exceed \$75. No officer or  
14 employee of the state and county of the state shall be  
15 permitted to retire under the provisions of this section until  
16 examined by a duly qualified physician or surgeon or board of  
17 physicians and surgeons, to be selected by the Governor for  
18 that purpose, and found to be disabled in the degree and in  
19 the manner specified in this section. Any officer or employee  
20 retiring under this section shall be examined periodically by  
21 a duly qualified physician or surgeon or board of physicians  
22 and surgeons to be selected by the Governor for that purpose  
23 and paid from the retirement trust fund herein provided for,  
24 at such time as the division ~~Department of Management Services~~  
25 shall direct to determine if such total disability has  
26 continued and in the event it be disclosed by said examination  
27 that said total disability has ceased to exist, then such  
28 officer or employee shall forthwith cease to be paid benefits  
29 under this section. Reference to s. 122.08 is for the purpose  
30 of computing benefits only. Any person heretofore retired  
31 under this section shall be eligible to qualify for the

1 minimum benefits provided herein; however, minimum benefits  
2 shall not be paid retroactively.

3 Section 55. Subsection (4) of section 122.10, Florida  
4 Statutes, is amended to read:

5 122.10 Separation from service; refund of  
6 contributions.--

7 (4) Should any officer or employee elect to receive a  
8 refund as provided in this section, his or her application for  
9 refund shall be submitted in the manner prescribed by the  
10 regulations adopted by the division ~~department~~ and shall  
11 accompany the payroll certification, submitted to the division  
12 ~~department~~, on which he or she was last paid prior to  
13 termination. The division ~~department~~ shall pay the entire  
14 refund due within 45 days after the first day of the month  
15 subsequent to receipt of such application for refund and said  
16 payroll certification.

17 Section 56. Subsection (1) of section 122.12, Florida  
18 Statutes, is amended to read:

19 122.12 Designation of beneficiary; death of  
20 participant; forfeiture of contributions after benefits paid;  
21 survivor benefits.--

22 (1) Any officer or employee may file, in writing, a  
23 designation of beneficiary and it shall be the duty of the  
24 division ~~department~~ to refund 100 percent, without interest,  
25 of the contributions made to the retirement trust fund by such  
26 deceased officer or employee to such designated beneficiary.  
27 The officer or employee shall have the privilege of changing,  
28 in writing, the designated beneficiary at any time. Upon  
29 failure to designate a beneficiary, the refund shall be made  
30 to the persons in the same order as designated in s. 222.15,  
31 for wages due deceased employees. If the deceased officer or



1 employee has received any benefits under this law, no refund  
2 shall be made unless such officer or employee has elected to  
3 accept benefits under s. 122.08(3) or (4).

4 Section 57. Section 122.13, Florida Statutes, is  
5 amended to read:

6 122.13 Administration of law; appropriation.--The  
7 division ~~department~~ shall make such rules as are necessary for  
8 the effective administration of this chapter, and the cost is  
9 hereby annually appropriated and shall be paid into the State  
10 and County Officers and Employees' Retirement Trust Fund out  
11 of the Intangible Tax Fund in the State Treasury in the amount  
12 necessary to administer efficiently the state and county  
13 retirement law. At the end of each fiscal year, beginning  
14 with fiscal year 1959-1960, the administrative cost of the  
15 state and county retirement system for the fiscal year just  
16 ended shall be refunded to the General Revenue Fund from  
17 interest earned on investments made subsequent to June 30,  
18 1959.

19 Section 58. Subsection (2) of section 122.15, Florida  
20 Statutes, is amended to read:

21 122.15 Benefits exempt from taxes and execution.--

22 (2) This subsection shall have no effect upon this  
23 section except that the division ~~department~~ may, upon written  
24 request from the retired member, deduct premiums for group  
25 hospitalization insurance from the retirement benefit paid  
26 such retired member.

27 Section 59. Paragraph (b) of subsection (2) of section  
28 122.16, Florida Statutes, is amended to read:

29 122.16 Employment after retirement.--

30 (2)

31

1           (b) Any person to whom the limitation in paragraph (a)  
2 applies who violates such reemployment limitation and is  
3 reemployed with any agency participating in the Florida  
4 Retirement System prior to completion of the 12-month  
5 limitation period shall give timely notice of this fact in  
6 writing to his or her employer and to the division ~~department~~;  
7 and his or her retirement benefits shall be suspended for the  
8 balance of the 12-month limitation period. Any person  
9 employed in violation of this subsection and any employing  
10 agency which knowingly employs or appoints such person without  
11 notifying the division ~~department~~ to suspend retirement  
12 benefits shall be jointly and severally liable for  
13 reimbursement to the retirement trust fund of any benefits  
14 paid during the reemployment limitation period. To avoid  
15 liability, such employing agency shall have a written  
16 statement from the retiree that he or she is not retired from  
17 a state-administered retirement system. Any retirement  
18 benefits received by such person while he or she is reemployed  
19 during this reemployment limitation period shall be repaid to  
20 the retirement trust fund, and his or her retirement benefits  
21 shall remain suspended until such repayment has been made. Any  
22 benefits suspended beyond the reemployment limitation period  
23 shall apply toward the repayment of benefits received in  
24 violation of the reemployment limitation.

25           Section 60. Subsection (3) of section 122.23, Florida  
26 Statutes, is amended to read:

27           122.23 Definitions; ss. 122.21-122.321.--In addition  
28 to those definitions set forth in s. 122.02 the following  
29 words and phrases used in ss. 122.21-122.24, 122.26 to  
30 122.321, inclusive, have the respective meanings set forth:  
31

1           (3) "Division" means the Division of Retirement of the  
2 State Board of Administration~~"Department" means the~~  
3 ~~Department of Management Services.~~

4           Section 61. Subsections (1) and (5) of section 122.30,  
5 Florida Statutes, are amended to read:

6           122.30 Appropriations.--

7           (1) There is hereby annually appropriated from the  
8 intangible tax fund of the state to the division ~~department~~ as  
9 the state agency designated in chapter 650, a sum not to  
10 exceed \$10,000 to defray the expenses of such agency in  
11 connection with its continuing duties in relation to the  
12 social security coverage provided by this law.

13           (5) In addition to amounts appropriated by other  
14 provisions of this chapter or other laws to defray cost of  
15 administration of this system, there is hereby appropriated  
16 out of the Intangible Tax Fund of the state for use of the  
17 division ~~department~~ in its administration of the two divisions  
18 of this system, the sum of \$100,000, or so much thereof as may  
19 be required for that purpose.

20           Section 62. Paragraphs (b) and (c) of subsection (1)  
21 and subsection (11) of section 122.34, Florida Statutes, are  
22 amended to read:

23           122.34 Special provisions for certain sheriffs and  
24 full-time deputy sheriffs.--

25           (1)

26           (b) Only those members who are full-time criminal law  
27 enforcement officers or agents, as certified by the employing  
28 authority, who perform duties according to rule, order, or  
29 established custom as full-time criminal law enforcement  
30 officers or agents shall be certified to the division

31

1 ~~department~~ as high hazard members, and only such members will  
2 be approved by the division ~~department~~.

3 (c) The division ~~department~~ shall make such rules as  
4 are necessary for the effective administration of the intent  
5 of this section.

6 (11) No high hazard member shall be permitted to  
7 receive benefits under this section until examined by a duly  
8 qualified physician or surgeon, or board of physicians and  
9 surgeons, to be selected by the Governor for that purpose, and  
10 found to be disabled in the degree and in the manner specified  
11 in this section. At such time as the division ~~Department of~~  
12 ~~Management Services~~ directs, any high hazard member receiving  
13 disability benefits under this section shall submit to a  
14 medical examination to determine if such disability has  
15 continued, and the cost of such examination shall be paid from  
16 the retirement trust fund herein provided for; and in the  
17 event it is declared by said examination that said disability  
18 has cleared, such member shall be ordered to return to active  
19 duty with the same rank and salary that he or she had at the  
20 time of disability. Any such member who shall fail to return  
21 to duty following such order shall forfeit all rights and  
22 claims under this law. Every high hazard member retiring  
23 under this provision shall be paid so long as the member's  
24 permanent total or partial disability continues, on his or her  
25 own requisition.

26 Section 63. Section 122.351, Florida Statutes, is  
27 amended to read:

28 122.351 Funding by local agencies.--Commencing on July  
29 1, 1969, all county and local agencies covered under the  
30 provisions of s. 122.35 shall accumulate and be responsible  
31 for the payment of social security and retirement matching

1 costs as required under s. 122.35, from the intangible tax  
2 allocation of that county and any other source available to  
3 the local governmental units, except that all agencies, other  
4 than the school boards, shall be given credit for 50 percent  
5 of their 1967-1969 actual employer matching cost, actual cost  
6 being that cost in cash actually paid by the employer for  
7 matching retirement and social security into the fund by the  
8 agency for said biennium. The above credit of 50 percent shall  
9 be calculated by the division ~~department~~.

10 Section 64. Subsection (6) of section 175.032, Florida  
11 Statutes, is amended to read:

12 175.032 Definitions.--For any municipality, special  
13 fire control district, chapter plan, local law municipality,  
14 local law special fire control district, or local law plan  
15 under this chapter, the following words and phrases have the  
16 following meanings:

17 (6) "Division" means the Division of Retirement of the  
18 State Board of Administration ~~Department of Management~~  
19 ~~Services~~.

20 Section 65. Subsection (1) of section 175.121, Florida  
21 Statutes, is amended to read:

22 175.121 Department of Revenue and Division of  
23 Retirement to keep accounts of deposits; disbursements.--For  
24 any municipality or special fire control district having a  
25 chapter or local law plan established pursuant to this  
26 chapter:

27 (1) The Department of Revenue shall keep a separate  
28 account of all moneys collected for each municipality and each  
29 special fire control district under the provisions of this  
30 chapter. Seven and three-tenths percent of all moneys so  
31 collected shall be transferred to the General Revenue Fund.

1 The balance of all moneys so collected shall ~~must~~ be  
2 transferred to the Police and Firefighters' Premium Tax Trust  
3 Fund and shall be separately accounted for by the division.  
4 The moneys budgeted as necessary to pay the expenses of the  
5 division for the daily oversight and monitoring of the  
6 firefighters' pension plans under this chapter and for the  
7 oversight and actuarial reviews conducted under part VII of  
8 chapter 112 are annually appropriated from the interest and  
9 investment income earned on the moneys collected for each  
10 municipality or special fire control district and deposited in  
11 the Police and Firefighters' Premium Tax Trust Fund. Interest  
12 and investment income remaining thereafter in the trust fund  
13 which is unexpended and otherwise unallocated by law shall be  
14 transferred ~~revert~~ to the General Revenue Fund on June 30 of  
15 each year.

16 Section 66. Section 175.1215, Florida Statutes, is  
17 amended to read:

18 175.1215 Police and Firefighters' Premium Tax Trust  
19 Fund.--The Police and Firefighters' Premium Tax Trust Fund is  
20 created in the State Treasury, to be administered by the  
21 Division of Retirement ~~of the Department of Management~~  
22 ~~Services~~. Funds credited to the trust fund, as provided in  
23 chapter 95-250, Laws of Florida, or similar legislation, shall  
24 be expended for the purposes set forth in that legislation.

25 Section 67. Subsection (1) of section 175.341, Florida  
26 Statutes, is amended to read:

27 175.341 Duties of Division of Retirement; rulemaking  
28 authority; investments by State Board of Administration.--

29 (1) The division shall be responsible for the daily  
30 oversight and monitoring for actuarial soundness of the  
31 firefighters' pension plans, whether chapter or local law

1 plans, established under this chapter, for receiving and  
2 holding the premium tax moneys collected under this chapter,  
3 and, upon determining compliance with the provisions of this  
4 chapter, for disbursing those moneys to the firefighters'  
5 pension plans. The funds necessary to pay expenses for such  
6 administration are ~~shall be~~ annually appropriated from the  
7 interest and investment income earned on moneys deposited in  
8 the trust fund.

9 Section 68. Subsection (7) of section 185.02, Florida  
10 Statutes, is amended to read:

11 185.02 Definitions.--For any municipality, chapter  
12 plan, local law municipality, or local law plan under this  
13 chapter, the following words and phrases as used in this  
14 chapter shall have the following meanings, unless a different  
15 meaning is plainly required by the context:

16 (7) "Division" means the Division of Retirement of the  
17 State Board of Administration ~~Department of Management~~  
18 ~~Services~~.

19 Section 69. Subsection (1) of section 185.10, Florida  
20 Statutes, is amended to read:

21 185.10 Department of Revenue and Division of  
22 Retirement to keep accounts of deposits; disbursements.--For  
23 any municipality having a chapter plan or local law plan under  
24 this chapter:

25 (1) The Department of Revenue shall keep a separate  
26 account of all moneys collected for each municipality under  
27 the provisions of this chapter. Seven and three-tenths percent  
28 of all moneys so collected shall be transferred to the General  
29 Revenue Fund. The balance of all moneys so collected shall  
30 ~~must~~ be transferred to the Police and Firefighters' Premium  
31 Tax Trust Fund and shall be separately accounted for by the

1 division. The moneys budgeted as necessary to pay the expenses  
2 of the division for the daily oversight and monitoring of the  
3 police officers' retirement plans under this chapter and for  
4 the oversight and actuarial reviews conducted under part VII  
5 of chapter 112 are annually appropriated from the interest and  
6 investment income earned on the moneys collected for each  
7 municipality or special fire control district and deposited in  
8 the Police and Firefighters' Premium Tax Trust Fund. Interest  
9 and investment income remaining thereafter in the trust fund  
10 which is unexpended and otherwise unallocated by law shall be  
11 transferred ~~revert~~ to the General Revenue Fund on June 30 of  
12 each year.

13 Section 70. Section 185.105, Florida Statutes, is  
14 amended to read:

15 185.105 Police and Firefighters' Premium Tax Trust  
16 Fund.--The Police and Firefighters' Premium Tax Trust Fund is  
17 created in the State Treasury, to be administered by the  
18 Division of Retirement ~~of the Department of Management~~  
19 ~~Services~~. Funds credited to the trust fund, as provided in  
20 chapter 95-250, Laws of Florida, or similar legislation, shall  
21 be expended for the purposes set forth in that legislation.

22 Section 71. Subsection (1) of section 185.23, Florida  
23 Statutes, is amended to read:

24 185.23 Duties of Division of Retirement; rulemaking  
25 authority; investments by State Board of Administration.--

26 (1) The division shall be responsible for the daily  
27 oversight and monitoring for actuarial soundness of the  
28 municipal police officers' retirement plans, whether chapter  
29 or local law plans, established under this chapter, for  
30 receiving and holding the premium tax moneys collected under  
31 this chapter, and, upon determining compliance with the



1 provisions of this chapter, for disbursing those moneys to the  
2 municipal police officers' retirement plans. The funds to pay  
3 the expenses for such administration are ~~shall be annually~~  
4 appropriated from the interest and investment income earned on  
5 moneys deposited in the trust fund.

6 Section 72. Paragraph (o) of subsection (4) of section  
7 215.20, Florida Statutes, is amended to read:

8 215.20 Certain income and certain trust funds to  
9 contribute to the General Revenue Fund.--

10 (4) The income of a revenue nature deposited in the  
11 following described trust funds, by whatever name designated,  
12 is that from which the appropriations authorized by subsection  
13 (3) shall be made:

14 (o) Within the Department of Management Services:

- 15 1. The Administrative Trust Fund.
- 16 2. The Architects Incidental Trust Fund.
- 17 3. The Bureau of Aircraft Trust Fund.
- 18 4. The Florida Facilities Pool Working Capital Trust  
19 Fund.
- 20 5. The Grants and Donations Trust Fund.
- 21 6. The Motor Vehicle Operating Trust Fund.
- 22 ~~7. The Police and Firefighters' Premium Tax Trust~~  
23 ~~Fund.~~
- 24 7.8. The Public Employees Relations Commission Trust  
25 Fund.
- 26 8.9. The State Personnel System Trust Fund.
- 27 9.10. The Supervision Trust Fund.
- 28 10.11. The Working Capital Trust Fund.

29  
30 The enumeration of the foregoing moneys or trust funds shall  
31 not prohibit the applicability thereto of s. 215.24 should the

1 Governor determine that for the reasons mentioned in s. 215.24  
2 the money or trust funds should be exempt herefrom, as it is  
3 the purpose of this law to exempt income from its force and  
4 effect when, by the operation of this law, federal matching  
5 funds or contributions or private grants to any trust fund  
6 would be lost to the state.

7 Section 73. Subsection (3) of section 215.28, Florida  
8 Statutes, is amended to read:

9 215.28 United States securities, purchase by state and  
10 county officers and employees; deductions from salary.--

11 (3) All deductions so made by any such disbursing  
12 authority shall be deposited in a trust account separate and  
13 apart from the funds of the state, county, or subordinate  
14 agency. Such trust account shall be created in the State  
15 Treasury and shall be administered by the State Board of  
16 Administration.Such account will be subject to withdrawal  
17 only for the purchase of United States securities on behalf of  
18 officers and employees, or for refunds to such persons in  
19 accordance with the provisions of this law. Whenever the sum  
20 of \$18.75 or the purchase price of the security requested to  
21 be purchased is accumulated from deductions so made from the  
22 salaries or wages of an officer or employee, such disbursing  
23 agent shall arrange the purchase of the bond or security  
24 applied for and have it registered in the name or names  
25 requested in the deduction authorization. Securities so  
26 purchased will be delivered in such manner as may be  
27 convenient for the issuing agent and the purchaser. Any  
28 interest earned on moneys in such account while awaiting the  
29 accumulation of the purchase price of the security shall be  
30 transferred to the Florida Retirement System Trust Fund as  
31 reimbursement for administrative costs incurred by the

1 Division of Retirement of the State Board of Administration  
2 ~~Department of Management Services~~ under this section.

3 Section 74. Subsection (7) of section 215.44, Florida  
4 Statutes, is amended to read:

5 215.44 Board of Administration; powers and duties in  
6 relation to investment of trust funds.--

7 (7) Investment and debt purchasing procedures and  
8 contracts of funds held in trust by the State Board of  
9 Administration, whether directly or incidentally related to  
10 the investment or debt transactions, and purchases of  
11 commodities or services related to the administration of  
12 pension benefits are exempt from the provisions of chapter  
13 287.

14 Section 75. Subsection (3) of section 215.50, Florida  
15 Statutes, is amended to read:

16 215.50 Custody of securities purchased; income.--

17 (3) The Chief Financial Officer, as custodian of  
18 securities owned by the Florida Retirement System Trust Fund  
19 and the Florida Survivor Benefit Trust Fund, shall collect the  
20 interest, dividends, prepayments, maturities, proceeds from  
21 sales, and other income accruing from such assets. As such  
22 income is collected by the Chief Financial Officer, it shall  
23 be deposited directly into a commercial bank to the credit of  
24 the State Board of Administration. Such bank accounts as may  
25 be required for this purpose shall offer satisfactory  
26 collateral security as provided by chapter 280. In the event  
27 funds so deposited according to the provisions of this section  
28 are required for the purpose of paying benefits or other  
29 operational needs, the State Board of Administration shall  
30 remit to the Florida Retirement System Trust Fund in the State

31

1 Treasury such amounts as are required ~~may be requested by the~~  
2 ~~Department of Management Services.~~

3 Section 76. Section 215.52, Florida Statutes, is  
4 amended to read:

5 215.52 Rules and regulations.--The board may adopt  
6 ~~shall have the power and authority to make reasonable rules~~  
7 ~~and regulations necessary to implement general law conferring~~  
8 ~~powers and duties upon it carry out the provisions of ss.~~  
9 ~~215.44-215.53.~~

10 Section 77. Subsections (2), (3), (11), and (13) of  
11 section 238.01, Florida Statutes, are amended to read:

12 238.01 Definitions.--The following words and phrases  
13 as used in this chapter shall have the following meanings  
14 unless a different meaning is plainly required by the context:

15 (2) "Division" means the Division of Retirement of the  
16 State Board of Administration~~"Department" means the~~  
17 ~~Department of Management Services.~~

18 (3) "Teacher" means any member of the teaching or  
19 professional staff and any certificated employee of any public  
20 free school, of any district school system and vocational  
21 school, any member of the teaching or professional staff of  
22 the Florida School for the Deaf and Blind, child training  
23 schools of the Department of Juvenile Justice, the Department  
24 of Corrections, and any tax-supported institution of higher  
25 learning of the state, and any member and any certified  
26 employee of the Department of Education, any certified  
27 employee of the retirement system, any full-time employee of  
28 any nonprofit professional association or corporation of  
29 teachers functioning in Florida on a statewide basis, which  
30 seeks to protect and improve public school opportunities for  
31 children and advance the professional and welfare status of

1 its members, any person now serving as superintendent, or who  
2 was serving as county superintendent of public instruction on  
3 July 1, 1939, and any hereafter duly elected or appointed  
4 superintendent, who holds a valid Florida teachers'  
5 certificate. In all cases of doubt the division ~~Department of~~  
6 ~~Management Services~~ shall determine whether any person is a  
7 teacher as defined herein.

8 (11) "Regular interest" means interest at such rate as  
9 may be set from time to time by the division ~~Department of~~  
10 ~~Management Services~~.

11 (13) "Earnable compensation" means the full  
12 compensation payable to a teacher working the full working  
13 time for his or her position. In respect to plans A, B, C, and  
14 D only, in cases where compensation includes maintenance, the  
15 division ~~Department of Management Services~~ shall fix the value  
16 of that part of the compensation not paid in money; provided  
17 that all members shall from July 1, 1955, make contributions  
18 to the retirement system on the basis of "earnable  
19 compensation" as defined herein and all persons who are  
20 members on July 1, 1955, may, upon application, have their  
21 "earnable compensation" for the time during which they have  
22 been members prior to that date determined on the basis of  
23 "earnable compensation" as defined in this law, upon paying to  
24 the retirement system, on or before the date of retirement, a  
25 sum equal to the additional contribution with accumulated  
26 regular interest thereon they would have made if "earnable  
27 compensation" had been defined, at the time they became  
28 members, as it is now defined. However, earnable compensation  
29 for all plan years beginning on or after July 1, 1990, shall  
30 not include any amounts in excess of the compensation  
31 limitation (originally \$200,000) established by s. 401(a)(17)

1 of the Internal Revenue Code prior to the Omnibus Budget  
2 Reconciliation Act of 1993, which limitation shall be adjusted  
3 for changes in the cost of living since 1989, in the manner  
4 provided by s. 401(a)(17) of the Internal Revenue Code of  
5 1991. This limitation, which has been part of the Teachers'  
6 Retirement System since plan years beginning on or after July  
7 1, 1990, shall be adjusted as required by federal law for  
8 qualified government plans.

9 Section 78. Section 238.02, Florida Statutes, is  
10 amended to read:

11 238.02 Name and date of establishment.--A retirement  
12 system is established and placed under the management of the  
13 division ~~Department of Management Services~~ for the purpose of  
14 providing retirement allowances and other benefits for  
15 teachers of the state. The retirement system shall begin  
16 operations on July 1, 1939. It has such powers and privileges  
17 of a corporation as may be necessary to carry out effectively  
18 the provisions of this chapter and shall be known as the  
19 "Teachers' Retirement System of the State," and by such name  
20 all of its business shall be transacted, all of its funds  
21 invested, and all of its cash and securities and other  
22 property held in trust for the purpose for which received.

23 Section 79. Section 238.03, Florida Statutes, is  
24 amended to read:

25 238.03 Administration.--

26 (1) The general administration and the responsibility  
27 for the proper operation of the retirement system and for  
28 making effective the provisions of this chapter are vested in  
29 the division ~~Department of Management Services~~. Subject to  
30 the limitation of this chapter, the division ~~department~~ shall,  
31 from time to time, establish rules and regulations for the

1 administration and transaction of the business of the  
2 retirement system and shall perform such other functions as  
3 are required for the execution of this chapter.

4 (2) The division ~~department~~ shall keep in convenient  
5 form such data as shall be necessary for actuarial valuation  
6 of the various funds created by this chapter and for checking  
7 the experience of the retirement system.

8 (3) The Department of Legal Affairs, at the option of  
9 the State Board of Administration, shall be the legal adviser  
10 of the division ~~department~~.

11 (4) The division ~~department~~ shall employ such agents,  
12 servants and employees as in its judgment may be necessary to  
13 carry out the terms and provisions of this chapter and shall  
14 provide for their compensation. Among the employees of the  
15 division ~~department~~ shall be an actuary who shall be the  
16 technical adviser of the division ~~department~~ on matters  
17 regarding the operation of the funds created by the provisions  
18 of this chapter and who shall perform such other duties as are  
19 required in connection therewith.

20 (5) In the year 1943 and at least once in each 5-year  
21 period thereafter, the actuary shall make an actuarial  
22 investigation of the mortality, service and salary experience  
23 of the members and beneficiaries as defined in this chapter,  
24 and shall make a valuation of the various funds created by the  
25 chapter, and having regard to such investigation and  
26 valuation, the division ~~department~~ shall adopt such mortality  
27 and service tables as shall be deemed necessary, and shall  
28 certify the rates of contribution payable under the provisions  
29 of this chapter.

30 (6) The actuary shall make an annual valuation of the  
31 assets and liabilities of the funds of the retirement system

1 on the basis of the tables adopted by the division ~~department~~  
2 in accordance with the requirements of this section, and shall  
3 prepare an annual statement of the amounts to be contributed  
4 by the state in accordance with s. 238.09.

5 (7) The division ~~department~~ shall publish annually the  
6 valuation, as certified by the actuary, of the assets and  
7 liabilities of the various funds created by this chapter, a  
8 statement as to the receipts and disbursements of the funds,  
9 and a statement as to the accumulated cash and securities of  
10 the funds.

11 (8) The division ~~department~~ shall keep a record of all  
12 of its proceedings and such record shall be open to inspection  
13 by the public.

14 (9) The division ~~department~~ is authorized to  
15 photograph and reduce to microfilm as a permanent record, its  
16 ledger sheets showing the salary and contributions of members  
17 of the retirement system, also the records of deceased members  
18 of the system and thereupon to destroy the documents from  
19 which such films are photographed.

20 Section 80. Paragraph (b) of subsection (1),  
21 paragraphs (a) and (b) of subsection (3), and subsection (4)  
22 of section 238.05, Florida Statutes, are amended to read:

23 238.05 Membership.--

24 (1) The membership of the retirement system shall  
25 consist of the following:

26 (b) All persons who became or who become teachers on  
27 or after July 1, 1939, except as provided in paragraph (a) and  
28 subsection (5) hereof, shall become members of the retirement  
29 system by virtue of their appointment as teachers. However,  
30 employees who are not members of the teaching or professional  
31 staff shall only become members of the retirement system by



1 filing a notice with the division ~~department~~ of their election  
2 to become members.

3 (3) Except as otherwise provided in s. 238.07(9),  
4 membership of any person in the retirement system will cease  
5 if he or she is continuously unemployed as a teacher for a  
6 period of more than 5 consecutive years, or upon the  
7 withdrawal by the member of his or her accumulated  
8 contributions as provided in s. 238.07(13), or upon  
9 retirement, or upon death; provided that the adjustments  
10 prescribed below are to be made for persons who enter the  
11 Armed Forces of the United States during a period of war or  
12 national emergency and for persons who are granted leaves of  
13 absence. Any member of the retirement system who within 1  
14 year before the time of entering the Armed Forces of the  
15 United States was a teacher, as defined in s. 238.01, or was  
16 engaged in other public educational work within the state, and  
17 member of the Teachers' Retirement System at the time of  
18 induction, or who has been or is granted leave of absence,  
19 shall be permitted to elect to continue his or her membership  
20 in the Teachers' Retirement System; and membership service  
21 shall be allowed for the period covered by service in the  
22 Armed Forces of the United States or by leave of absence under  
23 the following conditions:

24 (a) A person who has been granted leave of absence  
25 shall file with the division ~~department~~ before his or her next  
26 contribution is due an application to continue his or her  
27 membership during the period covered by the person's leave of  
28 absence and, if such application is filed, shall make his or  
29 her contribution to the retirement system on the basis of his  
30 or her last previous annual salary as a teacher, and shall,  
31 prior to retirement, pay in full to the system such

1 contributions with accumulated regular interest. Such  
2 contributions with interest may be paid at one time or in  
3 monthly, quarterly, semiannual, or annual payments in the  
4 person's discretion.

5 (b) A person who enters or who has entered the Armed  
6 Forces of the United States may either continue his or her  
7 membership according to the plan outlined under paragraph (a)  
8 or, in lieu thereof, may file with the division ~~department~~ at  
9 any time following the close of his or her military service an  
10 application that his or her membership be continued and that  
11 membership service be allowed for not more than 5 years of his  
12 or her period of service in the Armed Forces of the United  
13 States during any period of war or national emergency;  
14 provided that any such person shall, prior to retirement, pay  
15 in full his or her contributions with accumulated regular  
16 interest to the retirement system for the period for which he  
17 or she is entitled to membership service on the basis of his  
18 or her last previous annual salary as a teacher. Such  
19 contributions with interest may be paid to the division  
20 ~~department~~ at one time or in monthly, quarterly, semiannual,  
21 or annual payments in the person's discretion.

22 (4) The division ~~department~~ may in its discretion deny  
23 the right to become members to any class of teachers who are  
24 serving on a temporary or any other than a per annum basis,  
25 and it may also in its discretion make optional with members  
26 in any such class their individual entrance into membership.

27 Section 81. Subsections (3), (10), (12), (13), (15A),  
28 and (16) of section 238.07, Florida Statutes, are amended to  
29 read:

30 238.07 Regular benefits; survivor benefits.--

31

1           (3) Any member who, prior to July 1, 1955, elected to  
2 retire under one of plans A, B, C, or D may elect, prior to  
3 retirement, to retire under plan E in accordance with the  
4 terms hereof. Any person who became a member on or after July  
5 1, 1955, shall retire under plan E, except as provided for  
6 under s. 238.31. With respect to plans A, B, C, or D, any  
7 member shall have the right at any time to change to a plan of  
8 retirement requiring a lower rate of contribution. The  
9 division ~~Department of Management Services~~ shall also notify  
10 the member of the rate of contribution such member must make  
11 from and after selecting such plan of retirement. Any member  
12 in service may retire upon reaching the age of retirement  
13 formerly selected by him or her, upon the member's written  
14 application to the division ~~department~~ setting forth at which  
15 time, not more than 90 days subsequent to the execution and  
16 filing of such application, it is his or her desire to retire  
17 notwithstanding that during such period of notification he or  
18 she may have separated from service. Upon receipt of such  
19 application for retirement, the division ~~department~~ shall  
20 retire such member not more than 90 days thereafter. Before  
21 such member may retire he or she must file with the division  
22 ~~department~~ his or her written selection of one of the optional  
23 benefits provided in s. 238.08.

24           (10) Any member in service, who has 10 or more years  
25 of creditable service, may upon the application of his or her  
26 employer or upon his or her own application, be retired by the  
27 division ~~department~~ not less than 30 nor more than 90 days  
28 next following the date of filing such application, on a  
29 disability retirement allowance; provided that a physician  
30 licensed by this state examines and certifies that such member  
31 is mentally or physically incapacitated for the further

1 performance of duty, that such incapacity is likely to be  
2 permanent, and that such member should be retired, and the  
3 division ~~department~~ concurs. In making the determination, the  
4 division ~~department~~ may require other evidence of disability  
5 as deemed appropriate.

6 (12)(a) Once each year during the first 5 years  
7 following the retirement of a member on a disability  
8 retirement allowance, and once in every 3-year period  
9 thereafter, the division ~~department~~ may require any disability  
10 beneficiary who has not yet attained his or her minimum  
11 service retirement age to undergo a medical examination by a  
12 physician licensed by this state and to submit any other  
13 evidence of disability as required by the division ~~department~~.  
14 Should a disability beneficiary who has not yet attained his  
15 or her minimum service retirement age refuse to submit to any  
16 such medical examination, his or her retirement allowance  
17 shall be discontinued until his or her withdrawal of such  
18 refusal, and should such refusal continue for 1 year, all of  
19 the disability beneficiary's rights in and to his or her  
20 pension shall be forfeited.

21 (b) If the division ~~department~~ finds that a disability  
22 beneficiary is engaged in or is able to engage in a gainful  
23 occupation paying more than the difference between his or her  
24 disability retirement allowance and his or her average final  
25 compensation, the amount of the beneficiary's pension shall be  
26 reduced to an amount which, together with his or her annuity  
27 and the amount earnable by him or her, shall equal the amount  
28 of his or her average final compensation. Should the  
29 beneficiary's earning capacity later be changed, the amount of  
30 his or her pension may be further modified; provided that the  
31 pension so modified shall not exceed the amount of the pension

1 allowable under subsection (11), at the time of retirement,  
2 nor an amount which, when added to the amount earnable by the  
3 beneficiary, together with his or her annuity, equals the  
4 amount of his or her average final compensation. A  
5 beneficiary restored to active service at a salary less than  
6 the average final compensation upon the basis of which he or  
7 she was retired shall not become a member of the retirement  
8 system at that time.

9 (c) Should a disability beneficiary under his or her  
10 minimum service retirement age be at any time in service at a  
11 salary equal to or greater than his or her average final  
12 compensation upon the basis of which he or she was retired,  
13 the beneficiary's disability retirement allowance shall cease  
14 and he or she shall again become a member of the retirement  
15 system and shall contribute thereafter at the same rate at  
16 which he or she paid prior to disability. Any prior service  
17 certificate, on the basis of which his or her allowance was  
18 computed at the time of his or her disability retirement,  
19 shall be restored to full force and effect; and, in addition,  
20 upon his or her subsequent retirement he or she shall be  
21 credited with all his or her membership service on the basis  
22 of which his or her allowance was computed at the time of his  
23 or her disability retirement.

24 (13) Should a member cease to be a teacher except by  
25 death or by retirement under the provisions of this chapter,  
26 the member shall be paid the amount of his or her accumulated  
27 contributions. Should a member die before retirement, the  
28 amount of his or her accumulated contributions shall be paid  
29 to such person, if any, as he or she shall have nominated by  
30 written designation duly executed and filed with the division  
31

1 ~~department~~; otherwise, to his or her executors or  
2 administrators.

3 (15A)(a) Any member of the Teachers' Retirement System  
4 who has heretofore, or who hereafter, retires with no less  
5 than 10 years of creditable service and who has passed his or  
6 her 65th birthday, may, upon application to the division  
7 ~~department~~, have his or her retirement allowance redetermined  
8 and thereupon shall be entitled to a monthly service  
9 retirement allowance which shall be equal to \$4 multiplied by  
10 the number of years of the member's creditable service which  
11 shall be payable monthly during his or her retirement;  
12 provided, that the amount of retirement allowance as  
13 determined hereunder, shall be reduced by an amount equal to:

14 1. Any social security benefits received by the  
15 member, and

16 2. Any social security benefits that the member is  
17 eligible to receive by reason of his or her own right or  
18 through his or her spouse.

19 (b) No payment shall be made to a member of the  
20 Teachers' Retirement System under this act, until the division  
21 ~~department~~ has determined the social security status of such  
22 member.

23 (c) Eligibility of a member of the Teachers'  
24 Retirement System shall be determined under the social  
25 security laws and regulations; provided, however, that a  
26 member shall be considered eligible if the member or the  
27 member's spouse has reached 65 years of age and would draw  
28 social security if the member or the member's spouse were not  
29 engaged in activity that results in the member or the member's  
30 spouse receiving income that would make him or her ineligible  
31 to receive social security benefits. A member of the

1 Teachers' Retirement System shall be deemed to be eligible for  
2 social security benefits if the member has this eligibility in  
3 his or her own right or through his or her spouse.

4 (d) The division ~~department~~ shall review, at least  
5 annually, the social security status of all members of the  
6 Teachers' Retirement System receiving payment under this act  
7 and shall increase or decrease payments to such members as  
8 shall be necessary to carry out the intent of this act.

9 (e) No member of the Teachers' Retirement System shall  
10 have his or her retirement allowance reduced or any of his or  
11 her rights impaired by reason of this act.

12 (f) This subsection shall take effect on January 1,  
13 1962.

14 (16)(a) Definitions under survivor benefits are:

15 1. A dependent is a child, widow, widower, or parent  
16 of the deceased member who was receiving not less than  
17 one-half of his or her support from the deceased member at the  
18 time of the death of such member.

19 2. A child is a natural or legally adopted child of a  
20 member, who:

21 a. Is under 18 years of age, or

22 b. Is over 18 years of age but not over 22 years of  
23 age and is enrolled as a student in an accredited educational  
24 institution, or

25 c. Is 18 years of age or older and is physically or  
26 mentally incapable of self-support, when such mental and  
27 physical incapacity occurred prior to such child obtaining the  
28 age of 18 years. Such person shall cease to be regarded as a  
29 child upon the termination of such physical or mental  
30 disability. The determination as to such physical or mental  
31 incapability shall be vested in the division ~~department~~.

1  
2 No person shall be considered a child who has married or,  
3 except as provided in sub-subparagraph 2.b. or as to a child  
4 who is physically or mentally incapable of self-support as  
5 hereinbefore set forth, has become 18 years of age.

6           3. A parent is a natural parent of a member and  
7 includes a lawful spouse of a natural parent.

8           4. A beneficiary is a person who is entitled to  
9 benefits under this subsection by reason of his or her  
10 relation to a deceased member during the lifetime of such  
11 member.

12           (b) In addition to all other benefits to which a  
13 member shall, subject to the conditions set out below, be  
14 entitled, the beneficiary of such member shall, upon the death  
15 of such member, receive the following benefits:

16	17	18	19	20	21
	Minimum period of	Beneficiaries of	Benefits		
	paid service of	deceased member			
	member in Florida as				
	regular full-time				
	teacher				
22					
23	1. One calendar day	Widow or widower	\$190 per month for		
24		who has care of	one child. \$250 per		
25		dependent child or	month if more than		
26		children of	one child, maximum		
27		deceased member.	benefits \$250 per		
28			month.		
29					
30					
31					



1	2.	One calendar day	One or more	\$190 per month per
2			dependent children	child; maximum
3			if there is no	benefits \$250 per
4			surviving widow or	month if more than
5			widower.	one child.
6				
7	3.	One calendar day	Dependent parents	For each parent,
8			65 years or older.	\$100 per month for
9				life.
10				
11	4.	One calendar day	Designated	\$500 lump-sum death
12			beneficiary and,	benefits payable
13			if no designated	only once.
14			beneficiary, then	
15			the executor or	
16			administrator of	
17			deceased member.	
18				
19	5.	One calendar day	Dependent widow or	\$150 per month for
20			widower 50 years	life.
21			of age and less	
22			than 65 years of	
23			age.	
24				
25	6.	Ten years	Widow or widower	\$175 per month for
26			65 years of age or	life.
27			older.	
28				
29				
30				
31				

1 7. Retired member Designated \$500 lump-sum death  
2 beneficiary and if benefits payable  
3 no designated only once.  
4 beneficiary, then  
5 the executor or  
6 administrator of  
7 deceased retired  
8 member.

9  
10 Beginning on July 1, 1971, the lump-sum death benefit,  
11 provided in item 7 above for the retired teacher, shall apply  
12 to all present and future retirees of the systems.

13 (c) The payment of survivor benefits shall begin as of  
14 the month immediately following the death of the member except  
15 where the beneficiary has not reached the age required to  
16 receive benefits under paragraph (b), in which event the  
17 payment of survivor benefits shall begin as of the month  
18 immediately following the month in which the beneficiary  
19 reaches the required age. Provided that if death occurs during  
20 the first 3 years of employment, the payment of survivor  
21 benefits shall be reduced by the amount of monthly benefits  
22 the member's survivors are entitled to receive under federal  
23 social security as either a survivor of the member or as a  
24 covered worker under federal social security.

25 (d) Limitations on rights of beneficiary are:

26 1. The person named as beneficiary in paragraph (b)  
27 shall, in no event, be entitled to receive the benefits set  
28 out in such paragraph unless the death of the member under  
29 whom such beneficiary claims occurs within the period of time  
30 after the member has served in Florida as follows:

31

1	Minimum number of years	Period after serving in
2	of service in Florida	Florida in which
3		death of member
4		occurs

5		
6	3 to 5.....	2 years
7	6 to 9.....	5 years
8	10 or more.....	10 years

9

10           2. Upon the death of a member, the division ~~department~~

11 shall make a determination of the beneficiary or beneficiaries

12 of the deceased member and shall pay survivor benefits to such

13 beneficiary or beneficiaries beginning 1 month immediately

14 following the death of the member except where the beneficiary

15 has not reached the age required to receive benefits under

16 paragraph (b), in which event the payment of survivor benefits

17 shall begin as of the month immediately following the month in

18 which the beneficiary reaches the required age. When required

19 by the division ~~department~~, the beneficiary or beneficiaries

20 shall file an application for survivor benefits upon forms

21 prescribed by the division ~~department~~.

22           3. The beneficiaries of a member to receive survivor

23 benefits are fixed by this subsection, and a member may not

24 buy or otherwise change such benefits. He or she may,

25 however, designate the beneficiary to receive the \$500 death

26 benefits. If a member fails to make this designation, the

27 \$500 death benefits shall be paid to his or her executor or

28 administrator.

29           4. The beneficiary or beneficiaries of a member whose

30 death occurs while he or she is in service or while he or she

31 is receiving a disability allowance under subsection (11),

1 shall receive survivor benefits under this subsection  
2 determined by the years of service in Florida of the deceased  
3 member as set out in paragraph (b). The requirement that the  
4 death of a member must occur within a certain period of time  
5 after service in Florida as set out in subparagraph (d)1.  
6 shall not apply to a member receiving a disability benefit at  
7 the time of his or her death.

8 Section 82. Subsection (2), paragraph (b) of  
9 subsection (5), and subsections (6) and (7) of section 238.08,  
10 Florida Statutes, are amended to read:

11 238.08 Optional benefits.--A member may elect to  
12 receive his or her benefits under the terms of this chapter  
13 according to the provisions of any one of the following  
14 options:

15 (2) Option two. A member may elect to receive on  
16 retirement the actuarial equivalent (at that time) of his or  
17 her retirement allowance in a reduced retirement allowance  
18 payable throughout life, with the provisions that if the  
19 member dies before he or she has received in payment of his or  
20 her annuity the amount of his or her accumulated  
21 contributions, as they were at the time of his or her  
22 retirement, the balance shall be paid to such person, if any,  
23 as he or she shall nominate by written designation duly  
24 acknowledged and filed with the division ~~department~~;  
25 otherwise, to his or her executors or administrators.

26 (5)

27 (b) A member who elects Option three or Option four  
28 shall, on a form provided for that purpose, designate his or  
29 her spouse as beneficiary to receive the benefits which  
30 continue to be payable upon the death of the member. After  
31 such benefits have commenced under Option three or Option

1 four, the retired member may change the designation of his or  
2 her spouse as beneficiary only twice. If such a retired  
3 member remarries and wishes to make such a change, he or she  
4 may do so by filing with the division ~~department~~ a notarized  
5 change of spouse designation form and shall notify the former  
6 spouse in writing of such change. Upon receipt of a completed  
7 change of spouse designation form, the division ~~department~~  
8 shall adjust the member's monthly benefit by the application  
9 of actuarial tables and calculations developed to ensure that  
10 the benefit paid is the actuarial equivalent of the present  
11 value of the member's current benefit. The consent of a  
12 retired member's formerly designated spouse as beneficiary to  
13 any such change shall not be required.

14 (6) Notwithstanding any provision in this chapter to  
15 the contrary, the following provisions shall apply to any  
16 member of the retirement system who has accumulated at least  
17 10 years of service and dies prior to retirement:

18 (a) If the deceased member's surviving spouse has  
19 previously received a refund of the member's accumulated  
20 contributions made to the retirement system, such spouse may  
21 pay to the division ~~department~~ an amount equal to the sum of  
22 the amount of the deceased member's contributions previously  
23 refunded and regular interest compounded annually on the  
24 amount of such refunded contributions from the date of refund  
25 to the date of payment to the division ~~department~~, and by so  
26 doing be entitled to receive the monthly retirement benefit  
27 provided in paragraph (c).

28 (b) If the deceased member's surviving spouse has not  
29 received a refund of the deceased member's accumulated  
30 contributions, such spouse shall, upon application to the  
31 division ~~department~~ within 30 days of the death of the member,

1 receive the monthly retirement benefit provided in paragraph  
2 (c).

3 (c) The monthly benefit payable to the spouse  
4 described in paragraph (a) or paragraph (b) shall be the  
5 amount which would have been payable to the deceased member's  
6 spouse, assuming that the member retired on the date of his or  
7 her death and had selected the option in subsection (3), such  
8 benefit to be based on the ages of the spouse and member as of  
9 the date of death of the member. The benefit shall commence on  
10 the first day of the month following the payment of the  
11 aforesaid amount to the division ~~department~~, if paragraph (a)  
12 is applicable, or on the first day of the month following the  
13 receipt of the spouse's application by the division  
14 ~~department~~, if paragraph (b) is applicable.

15 (7) The surviving spouse or other dependent of any  
16 member whose employment is terminated by death shall, upon  
17 application to the division ~~department~~, be permitted to pay  
18 the required contributions for any service performed by the  
19 member which could have been claimed by the member at the time  
20 of his or her death. Such service shall be added to the  
21 creditable service of the member and shall be used in the  
22 calculation of any benefits which may be payable to the  
23 surviving spouse or other surviving dependent.

24 Section 83. Paragraphs (a), (c), and (d) of subsection  
25 (1), paragraphs (b) and (c) of subsection (3), subsection (4),  
26 and paragraph (b) of subsection (5) of section 238.09, Florida  
27 Statutes, are amended to read:

28 238.09 Method of financing.--All of the assets of the  
29 retirement system shall be credited, according to the purposes  
30 for which they are held, to one of four funds; namely, the  
31 Annuity Savings Trust Fund, the Pension Accumulation Trust

1 Fund, the Expense Trust Fund, and the Survivors' Benefit Trust  
2 Fund.

3 (1) The Annuity Savings Trust Fund shall be a fund in  
4 which shall be accumulated contributions made from the  
5 salaries of members under the provisions of paragraph (c) or  
6 paragraph (f). Contribution to, payments from, the Annuity  
7 Savings Trust Fund shall be made as follows:

8 (a) With respect to plan A, B, C, or D, upon the basis  
9 of such tables as the division ~~Department of Management~~  
10 ~~Services~~ shall adopt, and regular interest, the actuary of the  
11 retirement system shall determine for each member the  
12 proportion of earnable compensation which, when deducted from  
13 each payment of his or her prospective earnable annual  
14 compensation prior to his or her minimum service retirement  
15 age, and accumulated at regular interest until such age, shall  
16 be computed to provide at such age:

17 1. An annuity equal to one one-hundred-fortieth of his  
18 or her average final compensation multiplied by the number of  
19 his or her years of membership in the case of each member  
20 electing to retire under the provisions of plan A or B.

21 2. An annuity equal to one one-hundred-twentieth of  
22 his or her average final compensation multiplied by the number  
23 of his or her years of membership service in the case of each  
24 member electing to retire under the provisions of plan C.

25 3. An annuity equal to one one-hundredth of his or her  
26 average final compensation multiplied by the number of his or  
27 her years of membership service in the case of each member  
28 electing to retire under the provisions of plan D.

29  
30 In the case of any member who has attained his or her minimum  
31 service retirement age prior to becoming a member, the

1 proportion of salary applicable to such member, with respect  
2 to plan A, B, C, or D, shall be the proportion computed for  
3 the age 1 year younger than his or her minimum service  
4 retirement age.

5 (c) The division ~~department~~ shall certify to each  
6 employer the proportion of the earnable compensation of each  
7 member who is compensated by the employer, and the employer  
8 shall cause to be deducted from the salary of each member on  
9 each and every payroll for each and every payroll period an  
10 amount equal to the proportion of the member's earnable  
11 compensation so computed. With respect to plan A, B, C, or D,  
12 the employer shall not make any deduction for annuity purposes  
13 from the compensation of a member who has attained the age of  
14 60 years, if such member elects not to contribute.

15 (d) In determining the amount earnable by a member in  
16 a payroll period, the division ~~department~~ may consider the  
17 rate of compensation payable to such member on the first day  
18 of the payroll period as continuing throughout such payroll  
19 period, and it may omit deductions from compensation for any  
20 period less than a full payroll period if a teacher was not a  
21 member on the first day of the payroll period, and to  
22 facilitate the making of deductions, it may modify any  
23 deduction required of any member by such an amount as shall  
24 not exceed one-tenth of 1 percent of the annual salary from  
25 which said deduction is to be made.

26 (3) The Pension Accumulation Trust Fund shall be the  
27 fund in which shall be accumulated all reserves for the  
28 payment of all annuities or benefits in lieu of annuities on  
29 retired members and all pensions and other benefits payable  
30 from contributions made by the members and by the employers,  
31 from which annuities, pensions and benefits in lieu thereof



1 shall be paid. Contributions to, and payments from, the  
2 Pension Accumulation Trust Fund, other than as set forth in  
3 subsections (2) and (3) herein, shall be made as follows:

4 (b) On the basis of regular interest and of such  
5 mortality and other tables as shall be adopted by the division  
6 ~~department~~, the actuary engaged by the division ~~department~~ to  
7 make each valuation required by this chapter shall, during the  
8 period over which the accrued liability contribution is  
9 payable, determine, immediately after making such valuation,  
10 the uniform and constant percentage of the earnable  
11 compensation of the average new entrant, which, if contributed  
12 on the basis of his or her compensation throughout his or her  
13 entire period of service, would be sufficient to provide for  
14 the payment of any pension payable by the state on his or her  
15 account. The rate percent so determined shall be known as the  
16 normal contribution rate. After the accrued liability  
17 contribution has ceased to be payable, the normal contribution  
18 rate shall be the rate percent of the earnable compensation of  
19 all members, obtained by deducting from the total liabilities  
20 of the Pension Accumulation Trust Fund the amount of the funds  
21 in hand to the credit of that fund and dividing the remainder  
22 by 1 percent of the present value of the prospective future  
23 salaries of all members as computed on the basis of the  
24 mortality and service tables adopted by the division  
25 ~~department~~ and on the basis of regular interest. The normal  
26 rate of contribution shall be determined and certified to the  
27 division ~~department~~ by the actuary after each valuation and  
28 shall continue in force until a new valuation and  
29 certification are made.

30 (c) Immediately succeeding the first valuation, the  
31 actuary engaged by the division ~~department~~ shall compute the

1 rate percent of the total earnable compensation of all members  
2 which is equivalent to 4 percent of the amount of the total  
3 liability for pensions on account of all members and  
4 beneficiaries and not dischargeable by the present assets of  
5 the Pension Accumulation Trust Fund and by the aforesaid  
6 normal contribution if made on account of such members during  
7 the remainder of their active service. The rate percent,  
8 originally so determined, shall be known as the accrued  
9 liability contribution rate.

10 (4) The Expense Trust Fund shall be the fund to which  
11 shall be credited all moneys contributed for the  
12 administrative expenses of the retirement system and from  
13 which shall be paid all expenses incurred in connection with  
14 the administration and operation of the retirement system.  
15 Contribution to the Expense Trust Fund shall be made by  
16 transfer from interest earnings on investments in the Annuity  
17 Savings Trust Fund. Such transfers shall be approved by the  
18 State Board of Administration in accordance with s. 215.44(4)  
19 ~~regulated by the Legislature pursuant to budgets filed in~~  
20 ~~accordance with the provisions of chapter 216.~~

21 (5)

22 (b) The division ~~department~~ shall annually certify to  
23 each employer, at the time it makes the certification to the  
24 employer under paragraph (1)(c), the rate of  
25 twenty-five-hundredths percent to be applied by the employer  
26 to the salary of each member who is compensated by the  
27 employer, and the employer shall cause to be deducted from the  
28 salary of each member on each and every payroll for each and  
29 every payroll period an amount equal to twenty-five-hundredths  
30 percent of the member's salary paid by the employer and the  
31 employer shall remit monthly such deducted amounts to the

1 ~~division department~~ which shall place the same in the  
2 Survivors' Benefit Trust Fund of the Teachers' Retirement  
3 System of the state. The amount of contributions by a member  
4 to the Survivors' Benefit Trust Fund shall, in no event, be  
5 refundable to the member or his or her beneficiaries.

6 Section 84. Section 238.10, Florida Statutes, is  
7 amended to read:

8 238.10 Management of funds.--The division ~~Department~~  
9 ~~of Management Services~~, annually, shall allow regular interest  
10 on the amount for the preceding year to the credit of each of  
11 the funds of the retirement system, and to the credit of the  
12 individual account therein, if any, with the exception of the  
13 expense fund, from the interest and dividends earned from  
14 investments.

15 Section 85. Paragraph (b) of subsection (1) and  
16 subsections (2) and (3) of section 238.11, Florida Statutes,  
17 are amended to read:

18 238.11 Collection of contributions.--

19 (1) The collection of contributions shall be as  
20 follows:

21 (b) Each employer shall transmit monthly to the  
22 division ~~Department of Management Services~~ a warrant for the  
23 total amount of such deductions. Each employer shall also  
24 transmit monthly to the division ~~department~~ a warrant for such  
25 employer contribution set aside as provided for in paragraph  
26 (a) of this subsection. The division ~~department~~, after making  
27 records of all such warrants, shall transmit them to the  
28 Department of Financial Services for delivery to the Chief  
29 Financial Officer, who shall collect them.

30 (2) The collection of the state contribution shall be  
31 made as follows:

1           (a) The amounts required to be paid by the state into  
2 the Teachers' Retirement System in this chapter shall be  
3 provided therefor in the General Appropriations Act. However,  
4 in the event a sufficient amount is not included in the  
5 General Appropriations Act to meet the full amount needed to  
6 pay the retirement compensation provided for in this chapter,  
7 the additional amount needed for such retirement compensation  
8 is hereby appropriated from the General Revenue Fund as  
9 approved by the division ~~Department of Management Services~~.

10           (b) The division ~~Department of Management Services~~  
11 shall certify one-fourth of the amount so ascertained for each  
12 year to the Chief Financial Officer on or before the last day  
13 of July, October, January, and April of each year. The Chief  
14 Financial Officer shall, on or before the first day of August,  
15 November, February, and May of each year, immediately transfer  
16 to the several funds of the retirement system the amounts due.

17           (3) All collection of contributions of a nonprofit  
18 professional association or corporation of teachers as  
19 referred to in s. 238.01(3) and (5) shall be made by such  
20 association or corporation in the following manner:

21           (a) On April 1 of each year, the division ~~Department~~  
22 ~~of Management Services~~ shall certify to any such nonprofit  
23 professional association or corporation of teachers the  
24 amounts which will become due and payable during the ensuing  
25 fiscal year to each of the funds of the retirement system to  
26 which such contributions are payable as set forth in this law.

27           (b) The division ~~Department of Management Services~~  
28 shall certify one-fourth of the amount so ascertained for each  
29 year to the nonprofit professional association or corporation  
30 of teachers on or before the last day of July, October,  
31 January, and April of each year. The nonprofit professional

1 association or corporation of teachers shall, on or before the  
2 first day of August, November, February, and May of each year,  
3 draw its check payable to the division ~~department~~ for the  
4 respective amounts due the several funds of the retirement  
5 system. Upon receipt of the check, the division ~~department~~  
6 shall immediately transfer to the several funds of the  
7 retirement system the amounts due, provided, however, that the  
8 amounts due the several funds of the retirement system from  
9 any such association or corporation for creditable service  
10 accruing to any such member before July 1, 1947, shall be paid  
11 prior to the retirement of any such member.

12 Section 86. Section 238.12, Florida Statutes, is  
13 amended to read:

14 238.12 Duties of employers.--

15 (1) Each employer shall keep such records and, from  
16 time to time, shall furnish such information as the division  
17 ~~Department of Management Services~~ may require in the discharge  
18 of its duties. Upon the employment of any teacher to whom  
19 this chapter may apply, the teacher shall be informed by his  
20 or her employer of his or her duties and obligations in  
21 connection with the retirement system as a condition of his or  
22 her employment. Every teacher accepting employment shall be  
23 deemed to consent and agree to any deductions from his or her  
24 compensation required in this chapter and to all other  
25 provisions of this chapter.

26 (2) During September of each year, or at such other  
27 time as the division ~~department~~ shall approve, each employer  
28 shall certify to the division ~~department~~ the names of all  
29 teachers to whom this chapter applies.

30 (3) Each employer shall, on the first day of each  
31 calendar month, or at such less frequent intervals as the

1 division ~~department~~ may approve, notify the division  
2 ~~department~~ of the employment of new teachers, removals,  
3 withdrawals and changes in salary of members that have  
4 occurred during the preceding month, or the period covered  
5 since the last notification.

6 Section 87. Section 238.14, Florida Statutes, is  
7 amended to read:

8 238.14 Protection against fraud.--Any person who shall  
9 knowingly make any false statement, or shall falsify or permit  
10 to be falsified any record or records of this retirement  
11 system in any attempt to defraud such system as a result of  
12 such act, shall be guilty of a misdemeanor of the second  
13 degree, punishable as provided in s. 775.082 or s. 775.083.  
14 Should any change or error in records result in any member or  
15 beneficiary receiving from the retirement system more or less  
16 than he or she would have been entitled to receive had the  
17 records been correct, then on discovery of any such error the  
18 division ~~department~~ shall correct such error, and, as far as  
19 practicable, shall adjust the payments in such a manner that  
20 the actuarial equivalent of the benefit, to which such member  
21 or beneficiary was correctly entitled, shall be paid.

22 Section 88. Section 238.15, Florida Statutes, is  
23 amended to read:

24 238.15 Exemption of funds from taxation, execution,  
25 and assignment.--The pensions, annuities or any other benefits  
26 accrued or accruing to any person under the provisions of this  
27 chapter and the accumulated contributions and cash securities  
28 in the funds created under this chapter are exempted from any  
29 state, county or municipal tax of the state, and shall not be  
30 subject to execution or attachment or to any legal process  
31 whatsoever, and shall be unassignable, except:

1           (1) That any teacher who has retired shall have the  
2 right and power to authorize in writing the division  
3 ~~Department of Management Services~~ to deduct from his or her  
4 monthly retirement allowance money for the payment of the  
5 premiums on group insurance for hospital, medical and surgical  
6 benefits, under a plan or plans for such benefits approved in  
7 writing by the Chief Financial Officer, and upon receipt of  
8 such request the division ~~department~~ shall make the monthly  
9 payments as directed; and

10           (2) As may be otherwise specifically provided for in  
11 this chapter.

12           Section 89. Paragraph (a) of subsection (3) of section  
13 238.171, Florida Statutes, is amended to read:

14           238.171 Monthly allowance; when made.--

15           (3)(a) On July 1, 1974, the Department of Management  
16 Services ~~director of the Division of Retirement~~ shall adjust  
17 the monthly allowance provided for incapacitated teachers  
18 under this section by increasing said allowance by a  
19 percentage which shall be equal to the percentage change in  
20 the average cost-of-living index, as defined in chapter 121,  
21 over the period between April 1, 1967, and March 31, 1973. The  
22 percent of increase, as of July 1, 1974, shall be 25.4  
23 percent, which is the average cost-of-living increase  
24 percentage from April 1, 1967, through March 31, 1973.

25           Section 90. Subsection (2) of section 238.181, Florida  
26 Statutes, is amended to read:

27           238.181 Reemployment after retirement; conditions and  
28 limitations.--

29           (2)(a) Any person retired under this chapter, except  
30 under the disability retirement provisions of s. 238.07, may  
31 be reemployed by any private or public employer after

1 retirement and receive retirement benefits and compensation  
2 from his or her employer without limitation, except that no  
3 person may receive both a salary from reemployment with any  
4 agency participating in the Florida Retirement System and  
5 retirement benefits under this chapter for a period of 12  
6 months immediately subsequent to the date of retirement.

7 (b) Any person to whom the limitation in paragraph (a)  
8 applies who violates such reemployment limitation and who is  
9 reemployed with any agency participating in the Florida  
10 Retirement System before completion of the 12-month limitation  
11 period shall give timely notice of this fact in writing to his  
12 or her employer and to the division ~~Department of Management~~  
13 ~~Services~~ and shall have his or her retirement benefits  
14 suspended for the balance of the 12-month limitation period.  
15 Any person employed in violation of this paragraph and any  
16 employing agency which knowingly employs or appoints such  
17 person without notifying the division ~~department~~ to suspend  
18 retirement benefits shall be jointly and severally liable for  
19 reimbursement to the retirement trust fund of any benefits  
20 paid during the reemployment limitation period. To avoid  
21 liability, such employing agency shall have a written  
22 statement from the retiree that he or she is not retired from  
23 a state-administered retirement system. Any retirement  
24 benefits received while reemployed during this reemployment  
25 limitation period shall be repaid to the retirement trust  
26 fund, and retirement benefits shall remain suspended until  
27 such repayment has been made. Benefits suspended beyond the  
28 reemployment limitation shall apply toward repayment of  
29 benefits received in violation of the reemployment limitation.

30 (c) A district school board may reemploy a retired  
31 member as a substitute or hourly teacher on a noncontractual



1 basis after he or she has been retired for 1 calendar month,  
2 in accordance with s. 121.021(39). Any retired member who is  
3 reemployed within 1 calendar month after retirement shall void  
4 his or her application for retirement benefits. District  
5 school boards reemploying such teachers are subject to the  
6 retirement contribution required by paragraph (g).  
7 Reemployment of a retired member as a substitute or hourly  
8 teacher is limited to 780 hours during the first 12 months of  
9 his or her retirement. Any retired member reemployed for more  
10 than 780 hours during his or her first 12 months of retirement  
11 shall give timely notice in writing to his or her employer and  
12 to the division ~~department~~ of the date he or she will exceed  
13 the limitation. The division ~~department~~ shall suspend his or  
14 her retirement benefits for the remainder of his or her first  
15 12 months of retirement. Any person employed in violation of  
16 this paragraph and any employing agency which knowingly  
17 employs or appoints such person without notifying the division  
18 ~~department~~ to suspend retirement benefits shall be jointly and  
19 severally liable for reimbursement to the retirement trust  
20 fund of any benefits paid during the reemployment limitation  
21 period. To avoid liability, such employing agency shall have  
22 a written statement from the retiree that he or she is not  
23 retired from a state-administered retirement system. Any  
24 retirement benefits received by a retired member while  
25 reemployed in excess of 780 hours during his or her first 12  
26 months of retirement shall be repaid to the Retirement System  
27 Trust Fund, and his or her retirement benefits shall remain  
28 suspended until repayment is made. Benefits suspended beyond  
29 the end of the retired member's first 12 months of retirement  
30 shall apply toward repayment of benefits received in violation  
31 of the 780-hour reemployment limitation.

1           (d) A community college board of trustees may reemploy  
2 a retired member as an adjunct instructor, that is, an  
3 instructor who is noncontractual and part time, or as a  
4 participant in a phased retirement program within a community  
5 college, after he or she has been retired for 1 calendar  
6 month, in accordance with s. 121.021(39). Any retired member  
7 who is reemployed within 1 calendar month after retirement  
8 shall void his or her application for retirement benefits.  
9 Boards of trustees reemploying such instructors are subject to  
10 the retirement contribution required in paragraph (g). A  
11 retired member may be reemployed as an adjunct instructor for  
12 no more than 780 hours during the first 12 months of his or  
13 her retirement. Any retired member reemployed for more than  
14 780 hours during his or her first 12 months of retirement  
15 shall give timely notice in writing to his or her employer and  
16 to the division ~~department~~ of the date he or she will exceed  
17 the limitation. The division ~~department~~ shall suspend his or  
18 her retirement benefits for the remainder of his or her first  
19 12 months of retirement. Any person employed in violation of  
20 this paragraph and any employing agency which knowingly  
21 employs or appoints such person without notifying the division  
22 ~~department~~ to suspend retirement benefits shall be jointly and  
23 severally liable for reimbursement to the retirement trust  
24 fund of any benefits paid during the reemployment limitation  
25 period. To avoid liability, such employing agency shall have  
26 a written statement from the retiree that he or she is not  
27 retired from a state-administered retirement system. Any  
28 retirement benefits received by a retired member while  
29 reemployed in excess of 780 hours during his or her first 12  
30 months of retirement shall be repaid to the Retirement System  
31 Trust Fund, and retirement benefits shall remain suspended

1 until repayment is made. Benefits suspended beyond the end of  
2 the retired member's first 12 months of retirement shall apply  
3 toward repayment of benefits received in violation of the  
4 780-hour reemployment limitation.

5 (e) The Board of Trustees of the Florida School for  
6 the Deaf and the Blind may reemploy a retired member as a  
7 substitute teacher, substitute residential instructor, or  
8 substitute nurse on a noncontractual basis after he or she has  
9 been retired for 1 calendar month, in accordance with s.  
10 121.021(39). Any retired member who is reemployed within 1  
11 calendar month after retirement shall void his or her  
12 application for retirement benefits. The Board of Trustees of  
13 the Florida School for the Deaf and the Blind reemploying such  
14 teachers, residential instructors, or nurses is subject to the  
15 retirement contribution required by paragraph (g).  
16 Reemployment of a retired member as a substitute teacher,  
17 substitute residential instructor, or substitute nurse is  
18 limited to 780 hours during the first 12 months of his or her  
19 retirement. Any retired member reemployed for more than 780  
20 hours during his or her first 12 months of retirement shall  
21 give timely notice in writing to his or her employer and to  
22 the division ~~department~~ of the date he or she will exceed the  
23 limitation. The division ~~department~~ shall suspend his or her  
24 retirement benefits for the remainder of his or her first 12  
25 months of retirement. Any person employed in violation of  
26 this paragraph and any employing agency which knowingly  
27 employs or appoints such person without notifying the division  
28 ~~department~~ to suspend retirement benefits shall be jointly and  
29 severally liable for reimbursement to the retirement trust  
30 fund of any benefits paid during the reemployment limitation  
31 period. To avoid liability, such employing agency shall have

1 a written statement from the retiree that he or she is not  
2 retired from a state-administered retirement system. Any  
3 retirement benefits received by a retired member while  
4 reemployed in excess of 780 hours during his or her first 12  
5 months of retirement shall be repaid to the Retirement System  
6 Trust Fund, and his or her retirement benefits shall remain  
7 suspended until payment is made. Benefits suspended beyond  
8 the end of the retired member's first 12 months of retirement  
9 shall apply toward repayment of benefits received in violation  
10 of the 780-hour reemployment limitation.

11 (f) The State University System may reemploy a retired  
12 member as an adjunct faculty member or as a participant in a  
13 phased retirement program within the State University System  
14 after the retired member has been retired for 1 calendar  
15 month, in accordance with s. 121.021(39). Any retired member  
16 who is reemployed within 1 calendar month after retirement  
17 shall void his or her application for retirement benefits. The  
18 State University System is subject to the retired contribution  
19 required in paragraph (g), as appropriate. A retired member  
20 may be reemployed as an adjunct faculty member or a  
21 participant in a phased retirement program for no more than  
22 780 hours during the first 12 months of his or her retirement.  
23 Any retired member reemployed for more than 780 hours during  
24 his or her first 12 months of retirement shall give timely  
25 notice in writing to his or her employer and to the division  
26 ~~department~~ of the date he or she will exceed the limitation.  
27 The division ~~department~~ shall suspend his or her retirement  
28 benefits for the remainder of his or her first 12 months of  
29 retirement. Any person employed in violation of this  
30 paragraph and any employing agency which knowingly employs or  
31 appoints such person without notifying the division ~~department~~

1 to suspend retirement benefits shall be jointly and severally  
2 liable for reimbursement to the retirement trust fund of any  
3 benefits paid during the reemployment limitation period. To  
4 avoid liability, such employing agency shall have a written  
5 statement from the retiree that he or she is not retired from  
6 a state-administered retirement system. Any retirement  
7 benefits received by a retired member while reemployed in  
8 excess of 780 hours during his or her first 12 months of  
9 retirement shall be repaid to the Retirement System Trust  
10 Fund, and retirement benefits shall remain suspended until  
11 repayment is made. Benefits suspended beyond the end of the  
12 retired member's first 12 months of retirement shall apply  
13 toward repayment of benefits received in violation of the  
14 780-hour reemployment limitation.

15 (g) The employment by an employer of any retiree of a  
16 state-administered retirement system shall have no effect on  
17 the average final compensation or years of creditable service  
18 of such retiree. Prior to July 1, 1991, upon employment of  
19 any person, other than an elected officer as provided in s.  
20 121.053, who has been retired under any state-administered  
21 retirement program, the employer shall pay retirement  
22 contributions in an amount equal to the unfunded actuarial  
23 accrued liability portion of the employer contribution which  
24 would be required for a regular member of the Florida  
25 Retirement System. Effective July 1, 1991, contributions shall  
26 be made as provided in s. 121.122 for renewed membership.

27 (h) The limitations of this subsection apply to  
28 reemployment in any capacity with an "employer" as defined in  
29 s. 121.021(10), irrespective of the category of funds from  
30 which the person is compensated.

31

1           Section 91. Section 238.32, Florida Statutes, is  
2 amended to read:

3           238.32 Service credit in disputed cases.--The division  
4 ~~Department of Management Services~~ may in its discretion allow  
5 or deny a member service credit in disputed or doubtful cases  
6 for employment in Florida and out-of-state schools in order to  
7 serve the best interests of the state and the member, subject  
8 to the membership dates set forth in s. 238.06(4).

9           Section 92. Subsection (4) of section 650.02, Florida  
10 Statutes, is amended to read:

11           650.02 Definitions.--For the purpose of this chapter:

12           (4) The term "state agency" means the Division of  
13 Retirement of the State Board of Administration ~~Department of~~  
14 ~~Management Services~~.

15           Section 93. Subsection (1) of section 650.06, Florida  
16 Statutes, is amended to read:

17           650.06 Social Security Contribution Trust Fund.--

18           (1) There is hereby established in the State Treasury  
19 to be administered by the State Board of Administration a  
20 special fund to be known as the "Social Security Contribution  
21 Trust Fund." Such fund shall consist of and there shall be  
22 deposited in such fund:

23           (a) All contributions, interest, and penalties  
24 collected under ss. 650.04 and 650.05;

25           (b) All moneys appropriated thereto under this  
26 chapter;

27           (c) Any property or securities and earnings thereof  
28 acquired through the use of moneys belonging to the fund;

29           (d) Interest earned upon any moneys in the fund; and

30           (e) All sums recovered upon the bond of the custodian  
31 or otherwise for losses sustained by the fund and all other

1 moneys received for the fund from any other source. All  
2 moneys in the fund shall be mingled and undivided. Subject to  
3 the provisions of this chapter, the state agency is vested  
4 with full power, authority and jurisdiction over the fund,  
5 including all moneys and property or securities belonging  
6 thereto, and may perform any and all acts whether or not  
7 specifically designated, which are necessary to the  
8 administration thereof and are consistent with the provisions  
9 of this chapter.

10 Section 94. The Department of Management Services may  
11 contract with the State Board of Administration to administer  
12 sections 112.05, 121.1815, 238.171, 250.22, and  
13 112.351-112.362, Florida Statutes.

14 Section 95. The Division of Retirement of the State  
15 Board of Administration is a state agency for the purpose of  
16 making payments under the retirement plans and other benefit  
17 programs administered by the board and the Division of  
18 Retirement. The Department of Financial Services shall issue  
19 benefit payments to persons or governmental entities eligible  
20 for such payments under the retirement plans and other benefit  
21 programs administered by the board and the Division of  
22 Retirement. The board is authorized to requisition the  
23 appropriate amounts from trust funds in the State Treasury  
24 established for this purpose.

25 Section 96. This act shall take effect July 1, 2004.

26  
27 \*\*\*\*\*

28 SENATE SUMMARY

29 Transfers the Division of Retirement from the Department  
30 of Management Services to the State Board of  
31 Administration.